
**UNITED STATES
SECURITIES AND EXCHANGE COMMISSION**
Washington, DC 20549

FORM 8-K

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

Date of Report (Date of Earliest Event Reported): November 7, 2019

SIENTRA, INC.
(Exact Name of Registrant as Specified in Its Charter)

Delaware
(State or Other Jurisdiction
of Incorporation)

001-36709
(Commission
File Number)

20-5551000
(IRS Employer
Identification No.)

420 South Fairview Avenue, Suite 200
Santa Barbara, CA 93117
(Address of Principal Executive Offices and Zip Code)

Registrant's Telephone Number, Including Area Code: (805) 562-3500

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

Title of each class	Trading Symbol(s)	Name of each exchange on which registered
Common Stock, par value \$0.01 per share	SIEN	The Nasdaq Stock Market LLC

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 (see General Instruction A.2. below):

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

Indicate by check mark whether the registrant is an emerging growth company as defined in Rule 405 of the Securities Act of 1933 (§ 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 November 7, 2019 (the “*Closing Date*”), Sientra, Inc. (the “*Company*”) entered into an Asset Purchase Agreement (the “*Purchase Agreement*”) with Vesta Intermediate Funding, Inc. (“*Vesta*”), pursuant to which the Company purchased certain assets, assumed certain liabilities and obtained a non-exclusive, royalty-free, perpetual, irrevocable, assignable, sublicensable, and worldwide license to certain intellectual property owned by Vesta (the “*Vesta Acquisition*”). In consideration of the Vesta Acquisition, the Company paid \$14.0 million in cash on the Closing Date and will pay an additional \$3.2 million and \$3.0 million in cash (the “*Post-Closing Amounts*”) on November 7, 2021 and November 7, 2023, respectively. In addition, in the event the closing price of the Company’s common stock equals or exceeds a certain agreed upon price target (the “*First Milestone Price Target*”) on any date through November 7, 2023, the Company will issue Vesta 303,721 shares of common stock (the “*First Milestone Shares*”) within five business days of such date, and in the event the closing price of the Company’s common stock equals or exceeds a certain agreed upon price target (the “*Second Milestone Price Target*”) on any date through November 7, 2023, the Company will issue Vesta 303,721 shares of common stock (the “*Second Milestone Shares*”) within five business days of such date. The Company will use its commercially reasonable efforts to file and maintain a resale registrations statement registering the resale of the First Milestone Shares and the Second Milestone Shares. The Purchase Agreement contains customary representations and warranties and indemnification provisions. The Purchase Agreement also includes a mutual non-solicitation agreement.

In connection with, and as a condition to the closing of, the Purchase Agreement, on November 7, 2019, the Company entered into a Lease with Vesta (the “*Lease*”) whereby the Company will lease approximately 24,000 square feet in the building where the manufacturing operations acquired in the Vesta Acquisition are located (the “*Facility*”). The Lease has an initial term of four years (the “*Initial Term*”). The Company will pay annual rent of \$200,000 for each of the first two years and \$320,000 for each of the third and fourth years of the Lease payable in equal monthly installments. The Lease includes an option for the Company to extend the term of the Lease one time for an additional four years (the “*Extended Term*”). The Lease contains customary events of default and, additionally, any failure by the Company to pay the Post-Closing Amounts when due or issue the First Milestone Shares or Second Milestone Shares when required shall be considered an event of default. The Lease also provides that, in the event of a sale of the Facility, the Company will have a right of first offer to purchase the Facility from Vesta.

The foregoing summaries of the Purchase Agreement and the Lease do not purport to be complete and are qualified in their entirety by reference to the text of the Purchase Agreement and Lease filed as Exhibit 10.1 and Exhibit 10.2, respectively, to this Current Report on Form 8-K.

Item 2.01. Completion of Acquisition or Disposition of Assets.

The information included in Item 1.01 of this Current Report on Form 8-K is incorporated herein by reference.

Item 3.02. Unregistered Sales of Equity Securities.

The information included in Item 1.01 of this Current Report on Form 8-K is incorporated herein by reference.

Item 9.01. Financial Statements and Exhibits.

(d) Exhibits.

<u>Exhibit No.</u>	<u>Description</u>
10.1†	Asset Purchase Agreement, dated November 7, 2019, by and between Sientra, Inc. and Vesta Intermediate Funding, Inc.
10.2†	Lease, dated November 7, 2019, by and between Sientra, Inc. and Vesta Intermediate Funding, Inc.

† Portions of this exhibit have been redacted in compliance with Regulation S-K Item 601(b)(10).

SIGNATURES

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

SIENTRA, INC.

Dated: November 7, 2019

By: /s/ Jeffrey Nugent

Jeffrey Nugent

Chairman and Chief Executive Officer

*Certain identified information has been excluded from the exhibit because it is both (i) not material and (ii) would be competitively harmful if publicly disclosed, and has been marked with a “[***]” where the information has been omitted from the filed version of the exhibit.*

ASSET PURCHASE AGREEMENT

by and between

SIENTRA, INC.,

as Purchaser,

and

VESTA INTERMEDIATE FUNDING, INC.

as Seller

Dated as of November 7, 2019

ASSET PURCHASE AGREEMENT

THIS ASSET PURCHASE AGREEMENT (this "Agreement") is made and entered into this 7th day of November, 2019 (the "Effective Date"), by and between SIENTRA, INC., a Delaware corporation ("Purchaser"), and VESTA INTERMEDIATE FUNDING, INC., a Delaware corporation ("Seller").

RECITALS

- A. Prior to the Effective Date, Seller was engaged in the Implant Activities.
- B. Purchaser desires to purchase, acquire and license from Seller (and Seller's Affiliates), and Seller desires to sell, assign and license to Purchaser, certain assets and rights owned or used by Seller (and its Affiliates) that relate to the Implant Activities.
- C. Capitalized terms used in this Agreement have the meanings set forth or referred to in Appendix A.

AGREEMENT

In consideration of the foregoing recitals, the representations, warranties, agreements and covenants set forth in this Agreement, and other good and valuable consideration, the receipt, adequacy and legal sufficiency of which is hereby acknowledged, Purchaser and Seller agree as follows:

ARTICLE I SALE AND PURCHASE

1.1 Sale and Purchase of Assets. Except as set forth in Section 1.1(c), at the Closing, Seller shall (on behalf of Seller and its Affiliates to) sell, assign, convey, transfer and deliver to Purchaser, and Purchaser shall purchase, acquire and accept from Seller (and Seller's Affiliates), all of Seller's (and Seller's Affiliates') right, title and interest in, to and under the following assets and rights (the "Acquired Assets"), free and clear of any Encumbrances:

(a) all Intellectual Property owned by Seller (and Seller's Affiliates) as of the Closing that relates exclusively to the Implant Activities, including such Intellectual Property described on Schedule 1.1(a), (collectively, the "Acquired Intellectual Property"), together with the rights of Seller (and Seller's Affiliates) as of the Closing to sue for, to assert claims against, and to pursue remedies against past, present and future infringement or misappropriation of the Acquired Intellectual Property; provided, however, (i) Seller (and Seller's Affiliates) shall have no obligation under this Agreement or otherwise to document, reduce to any tangible, digital or other form or medium, or physically convey, transfer or deliver to Purchaser, any Acquired Intellectual Property that was not documented or reduced to a tangible, digital or other form or medium by Seller prior to the Closing, which shall not be deemed to narrow the scope of the Acquired Intellectual Property, and (ii) the Acquired Intellectual Property shall not include any of Seller's or any of Seller's Affiliates' rights or privileges relating to any privileged communications among Seller, any of Seller's Affiliates or their respective legal counsel or any attorney, including any work-product created thereby;

(b) the Approvals described on Schedule 1.1(b) (the “Acquired Approvals”);

(c) the manufacturing equipment and spare parts described on Schedule 1.1(c) (the “Acquired Equipment”); provided, however, that title to, and ownership of, the Thermal Oxidizer referenced on Schedule 1.1(c) shall not be transferred at the Closing, but instead on the Thermal Oxidizer Transition Date as defined and provided in the Lease;

(d) the raw materials, work-in-process and finished goods inventory described on Schedule 1.1(d), including any finished goods manufactured by Seller from such raw materials and work-in-process after November 5, 2019 and prior to the Closing, but excluding such raw materials and work-in-process utilized by Seller in the ordinary course after November 5, 2019 and the Closing and any finished goods sold or delivered to Purchaser prior to the Closing (the “Acquired Inventory”);

(e) the contracts and purchase orders described on Schedule 1.1(e) and any license agreements for software or other technology incorporated in any of the Acquired Equipment (collectively, the “Acquired Contracts”);

(f) the prepaid expenses described on Schedule 1.1(f); and

(g) the books and records owned by Seller (and Seller’s Affiliates) as of the Closing to the extent relating to the Implant Activities, including the books and records described on Schedule 1.1(g) (the “Acquired Books and Records”); provided, however, the Acquired Books and Records shall not include any of Seller’s or any of Seller’s Affiliates’ rights or privileges relating to any privileged communications among Seller, any of Seller’s Affiliates or their respective legal counsel or any attorney, including any attorney work-product created thereby.

1.2 Intellectual Property License. At the Closing, Seller shall (on behalf of itself and its Affiliates) grant to Purchaser a non-exclusive, royalty-free, perpetual, irrevocable, assignable, sublicensable, and worldwide license on the terms set forth in Exhibit A (the “License Agreement”) to the Intellectual Property owned by Seller (and its Affiliates) as of the Closing that relates to, but that does not relate exclusively to, the Implant Activities (the “Licensed Intellectual Property”); provided, however, (i) Seller (and Seller’s Affiliates) shall have no obligation under this Agreement or otherwise to document, reduce to any tangible, digital or other form or medium, or physically convey, transfer or deliver to Purchaser, any Licensed Intellectual Property that was not documented or reduced to a tangible, digital or other form or medium by Seller or its Affiliates prior to the Closing, which shall not be deemed to narrow the scope of the Licensed Intellectual Property or Purchaser’s license rights to the Licensed Intellectual Property after the Closing, and (ii) the Licensed Intellectual Property shall not include any of Seller’s or any of Seller’s Affiliates’ rights or privileges relating to any privileged communications among Seller, any of Seller’s Affiliates or their respective legal counsel or any attorney, including any attorney work-product created thereby.

1.3 Retained Assets. Except for the Acquired Assets, the Licensed Intellectual Property, and the Intellectual Property licensed to Seller or any of its Affiliates under any Acquired Contract, neither Seller nor any of its Affiliates is selling, assigning, conveying, transferring, delivering or licensing, and neither Purchaser nor any of its Affiliates is purchasing, acquiring, accepting or licensing, any right, title or interest in, to or under any other asset, property or right owned or used by Seller or its Affiliates (collectively, the “Retained Assets”), including the Retained Assets described on Schedule 1.3.

1.4 Assumed Liabilities. At the Closing, Seller shall (and Seller shall cause its Affiliates to) assign, and Purchaser shall assume and agree to fully pay, perform or satisfy, as and when they become due, all obligations and liabilities of Seller (and Seller's Affiliates) relating to:

(a) the Acquired Assets and the Implants that are incurred or arise after the Closing (but excluding the obligations and liabilities of Seller referred to in Section 1.5(b));

(b) the Acquired Contracts that are incurred or arise after the Closing; and

(c) the Transferred Employees as described on Schedule 1.4(c) (collectively, (a), (b) and (c) the "Assumed Liabilities").

1.5 Retained Liabilities. All obligations and liabilities of Seller (and its Affiliates) other than the Assumed Liabilities (collectively, the "Retained Liabilities") shall be retained by Seller (and its Affiliates) and fully paid, performed or satisfied by Seller (or its Affiliates) as and when they become due. The Retained Liabilities include:

(a) (i) any income or other Tax obligations of Seller or its Affiliates, (ii) any Taxes relating, directly or indirectly, to the Acquired Assets or the Implant Activities, or the ownership, sale or lease of any of the Acquired Assets or the Implants, in each case attributable to any period (or portion of any period) ending prior to the Closing, and (iii) any Taxes arising with respect to any compensation or employee benefit obligations for Seller's or its Affiliates' employees or former employees arising prior to the Closing; and

(b) the obligations and liabilities of Seller under the Manufacturing Agreement and the Services Agreement as and to the extent described in the Termination and Release Agreement.

1.6 Consideration.

(a) In consideration of Seller (and Seller's Affiliates) selling, assigning and licensing to Purchaser the Acquired Assets and the Licensed Intellectual Property, Purchaser shall pay to Seller Twenty Million One Hundred Sixty-Three Thousand Three Hundred Thirty-Five Dollars (\$20,163,335) (the "Purchase Price") and assume the Assumed Liabilities. The Assumed Liabilities shall be assumed by Purchaser at the Closing and the Purchase Price shall be paid by Purchaser to Seller as follows:

(i) Fourteen Million Dollars (\$14,000,000) at the Closing (the "Closing Day Purchase Price Payment") in immediately available funds by wire transfer to a bank account designated in writing by Seller to Purchaser no less than one (1) business day prior to the Closing Date; and

(ii) Three Million One Hundred Sixty-Three Thousand Three Hundred Thirty-Five Dollars (\$3,163,335) on the second (2nd) anniversary of the Closing Date, and Three Million Dollars (\$3,000,000) on the fourth (4th) anniversary of the Closing Date, in each case in immediately available funds by wire transfer to a bank account designated in writing by Seller to Purchaser no less than two (2) business days prior to the second (2nd) and fourth (4th) anniversaries of the Closing Date (the “Post-Closing Purchase Price Payments”); provided, however, that in the event that there is a Change of Control prior to the payment of any unpaid Post-Closing Purchase Price Payments, then as a condition precedent to the consummation of such Change of Control, Purchaser shall pay (or Purchaser shall cause the acquiror(s) or beneficiary(ies) to pay) all remaining unpaid Post-Closing Purchase Price Payments to Seller or its designee by wire transfer to a bank account designated in writing by Seller at or prior to the consummation of such Change of Control.

(b) In addition to the foregoing, (i) in the event that the closing price per share of Purchaser’s common stock (“Purchaser Common Stock”) as quoted on the Principal Market equals or exceeds [***] per share (as adjusted for any stock splits, stock dividends, combinations, subdivisions or other recapitalizations after the date hereof (a “Recapitalization Event”)) at any time through November 7, 2023 (the “First Tranche Trigger Event”), then promptly after the First Tranche Trigger Event (and in any event within five (5) business days after the First Tranche Trigger Event) Purchaser shall issue to Seller 303,721 shares of Purchaser Common Stock (the “First Tranche Shares”), which First Tranche Shares shall be subject to the restrictions set forth in the Lockup Agreement, and (ii) in the event that the closing price per share of Purchaser Common Stock as quoted on the Principal Market equals or exceeds [***] per share (as adjusted for any a Recapitalization Event) at any time through November 7, 2023 (the “Second Tranche Trigger Event”), then promptly after the Second Tranche Trigger Event (and in any event within five (5) business days after the Second Tranche Trigger Event) Purchaser shall issue to Seller 303,721 shares of Purchaser Common Stock (the “Second Tranche Shares,” and together with the First Tranche Shares, the “Shares”), which Second Tranche Shares shall be subject to the restrictions set forth in the Lockup Agreement. Notwithstanding the foregoing, in the event that on or before November 7, 2023, there is a Change of Control, then immediately prior to the consummation of such Change of Control, Purchaser shall issue to Seller the First Tranche Shares (to the extent not already issued) and/or the Second Tranche Shares (to the extent not already issued). For clarity, any rights to receive Shares not already issued or issuable pursuant to this Section 1.6(b) as of 11:59 pm Pacific Time shall terminate as of such time on November 7, 2023 if the First Tranche Trigger Event and/or the Second Tranche Trigger Event has not occurred as of such time, nor has a Change of Control been consummated.

1.7 Purchase Price Allocation. The parties shall allocate the Purchase Price among the Acquired Assets in accordance with Section 1060 of the United States Internal Revenue Code of 1986, as amended.

ARTICLE II CLOSING

2.1 Closing Date. Consummation of the sale and purchase of the Acquired Assets, the license of the Licensed Intellectual Property, and the assignment and assumption of the Assumed Liabilities contemplated by this Agreement (the “Closing”) shall occur via the electronic exchange of executed documents and other deliverables on the Effective Date. The date on which the Closing occurs is referred to in this Agreement as the “Closing Date.”

2.2 Deliveries at Closing.

(a) At the Closing, Seller shall deliver to Purchaser:

(i) the License Agreement, duly executed on behalf of Seller;

(ii) a Bill of Sale and Assignment in the form of Exhibit B, duly executed on behalf of Seller (the “Bill of Sale”);

(iii) an Assignment and Assumption Agreement in the form of Exhibit C, duly executed on behalf of Seller (the “Assignment and Assumption Agreement”);

(iv) a Real Property Lease in the form of Exhibit D, duly executed on behalf of Seller (the “Lease”);

(v) a Transition Services Agreement in the form of Exhibit E, duly executed on behalf of Seller (the “Transition Services Agreement”);

(vi) a Termination and Release Agreement in the form of Exhibit F, duly executed on behalf of Seller (the “Termination and Release Agreement”);

(vii) a Supply Agreement providing for the sale of silicone patches and silicone caps by Seller or its Affiliates to Purchaser in the Form of Exhibit G, duly executed on behalf of Seller (the “Supply Agreement”);

(viii) a Lockup Agreement in the form of Exhibit H, duly executed on behalf of Seller (the “Lockup Agreement”);

(ix) the Acquired Books and Records.

(b) At the Closing, Purchaser shall deliver to Seller:

(i) the Closing Day Purchase Price Payment in immediately available funds by wire transfer to a bank account designated in writing by Seller to Purchaser no less than one (1) business day prior to the Closing Date;

(ii) the License Agreement, the Bill of Sale, the Assignment and Assumption Agreement, the Lease, the Transition Services Agreement, the Termination and Release Agreement, the Supply Agreement and the Lockup Agreement (collectively, the “Ancillary Agreements”), each duly executed on behalf of Purchaser;

(iii) confirmation, in form and substance reasonably satisfactory to Seller, that Purchaser has bound the insurance policy attached hereto as Exhibit I with respect to the representations and warranties of Seller in Article III (the “R&W Insurance Policy”); and

(iv) a Wisconsin resale exemption certificate and a Wisconsin manufacturing exemption certificate in a form reasonably acceptable to Seller.

ARTICLE III
SELLER'S REPRESENTATIONS AND WARRANTIES

Seller represents and warrants to Purchaser that the statements contained in this Article III are accurate as of the Closing, except as disclosed in the Schedules hereto (the "Disclosure Schedules"). The Disclosure Schedules will be arranged in sections corresponding to the numbered sections and lettered subsections contained in this Article III, and the disclosure in any such section or subsection of the Disclosure Schedules shall qualify the corresponding representation or warranty in this Article III and any other such representation or warranty to which it is readily apparent on the face of such disclosure that such disclosure should apply.

3.1 Organization, Authority and Enforceability.

(a) Seller is a corporation duly organized, validly existing and in good standing under the laws of the State of Delaware, has all requisite corporate power and corporate authority to own, lease and operate the Acquired Assets and conduct the Implant Activities, and is duly qualified to do business and is in good standing as a foreign corporation in the State of Wisconsin. Seller is not in violation of any of the provisions of its certificate of incorporation or bylaws, except for such violations that would not be reasonably expected to have a Seller Material Adverse Effect.

(b) Seller has the requisite corporate power and corporate authority to enter into this Agreement and the Ancillary Agreements and to consummate the transactions contemplated hereby and thereby. The execution and delivery of this Agreement and the Ancillary Agreements, and the consummation of the transactions contemplated hereby and thereby, have been duly authorized by all necessary corporate action of Seller. Seller has the right to license the Licensed Intellectual Property to Purchaser as set forth in the License Agreement.

(c) This Agreement has been, and each Ancillary Agreement when executed and delivered will be, duly executed and delivered by Seller, and, assuming the due execution and delivery by Purchaser, constitutes, or will constitute, the valid and binding obligation of Seller enforceable against Seller in accordance with their terms, except as such enforceability may be limited by bankruptcy, insolvency, moratorium or other similar laws affecting or relating to creditors' rights generally, and is subject to general principles of equity.

(d) The execution and delivery of this Agreement and each Ancillary Agreement, and the consummation of the transactions contemplated hereby and thereby, will not, (a) contravene, conflict with or result in any termination of or any new or additional limitations on Purchaser's right, title or interest in or to any of the Acquired Intellectual Property or the Licensed Intellectual Property as a result of a written contract to which Seller is a party, (b) require Seller to grant to any Third-Party any right, option, or license with respect to any Acquired Intellectual Property, or (c) conflict with, or result in any violation of, or default under (with or without notice or lapse of time, or both), or give rise to a right of termination, cancellation or acceleration of any material obligation or loss of any material benefit under (i) any provision of the certificate of incorporation or bylaws of Seller, (ii) any applicable law in any material respect, (iii) any Acquired Approval, (iv) any Acquired Contract, or (v) any other written contract, permit or order or decree of any Governmental Body applicable to Seller, except for such conflicts, violations, defaults, rights of termination, cancellation or acceleration, in the case of this subclauses (iii) and (v), that would not reasonably be expected to have a Seller Material Adverse Effect.

(e) Except as set forth on Schedule 3.1(e), no consent, approval, order or authorization of, or registration, declaration or filing with, any Governmental Body is required by Seller in connection with the execution and delivery of this Agreement or the Ancillary Agreements, or the consummation of the transactions contemplated hereby or thereby.

3.2 Absence of Certain Changes. Since December 5, 2018, (a) there has been no Seller Material Adverse Effect or any event, change or effect that, individually or in the aggregate is reasonably expected to have a Seller Material Adverse Effect, (b) Seller has conducted the Implant Activities in the ordinary course of Seller's business consistent with past practice, and (c) there has not occurred any sale or other disposition of any asset of Seller that was material to Seller's conduct of the Implant Activities, other than Implant and Implant Activity related inventory in the ordinary course of Seller's conduct of the Implant Activities, that would constitute an Acquired Asset if not sold or otherwise disposed of by Seller prior to the Closing.

3.3 Litigation. Except as set forth on Schedule 3.3, there is no Legal Proceeding pending or, to Seller's Knowledge, threatened by or against Seller or any of its Affiliates that relates to the Implant Activities, the Acquired Assets, the Licensed Intellectual Property or the Transferred Employees. There is no judgment, injunction, decree or order against Seller or its Affiliates that relates to the Implant Activities, the Acquired Assets, the Licensed Intellectual Property or the Transferred Employees.

3.4 Intellectual Property.

(a) No Registered Intellectual Property. Neither Seller nor any of its Affiliates has filed any applications for the registration of any Acquired Intellectual Property or any Licensed Intellectual Property with the United States Patent and Trademark Office, the United States Copyright Office, or any other patent office or copyright office anywhere in the world.

(b) Ownership. Seller is the sole and exclusive owner of, and has good and valid title to, the Acquired Intellectual Property and the Licensed Intellectual Property, free and clear of all Encumbrances. Seller has the sole and exclusive right to bring a claim or suit against a Third-Party for past, present or future infringement of each item of Acquired Intellectual Property. All Acquired Intellectual Property and Licensed Intellectual Property is fully transferable, alienable or licensable by Seller without restriction and without payment of any kind to any Third-Party. Since June 4, 2015 Seller has not transferred to any Third-Party ownership of any Intellectual Property that was, prior to such transfer, related to the Implant Activities.

(c) No Outbound Rights. Neither Seller nor any of its Affiliates has granted any Third-Party, including to any Affiliate of Seller, any options, rights or licenses with respect to any of the Acquired Intellectual Property, including any license, covenant not to assert or sue, or other immunity from suit, or any right of first refusal, or right of first negotiation, including any right or option to purchase or license any of the Acquired Intellectual Property.

(d) No Third-Party Intellectual Property. Except for (i) commercially available software, (ii) Third-Party Intellectual Property licensed to Seller under an Acquired Contract, and (iii) Third-Party Intellectual Property incorporated into equipment owned, leased or operated by Seller, other than the Acquired Equipment, neither Seller nor its Affiliates use any Intellectual Property owned by a Third-Party to conduct the following Implant Activities: (A) engineering, prototyping, assembling, measuring, processing and manufacturing the Implants, including dipping, sheeting, shaping, layering, filling, sterilizing, curing, and texturing the Implants, (B) quality control testing the Implants, and (C) labeling, packaging and storing the Implants. Neither Seller nor any of its Affiliates has any obligation to pay any royalties, license fees or other amounts or provide or pay any other consideration to any Third-Party by reason of ownership, use, exploitation, practice, sale or disposition of any Acquired Intellectual Property or Licensed Intellectual Property.

(e) No Challenges. Since June 4, 2015, (i) no Third-Party has challenged in a written notice received by Seller or, to Seller's Knowledge, threatened to challenge Seller's ownership of or title to any Acquired Intellectual Property or Licensed Intellectual Property or the validity or enforceability of any Acquired Intellectual Property or Licensed Intellectual Property, nor (ii) has any Third Party asserted or threatened Seller or its Affiliate in writing that any of the Implant Activities or any Acquired Intellectual Property or Licensed Intellectual Property violates, infringes, misappropriates, or unlawfully uses the Intellectual Property of any Third Party.

(f) Trade Secrets. Seller and its Affiliates have taken reasonable measures and precautions to protect and maintain the confidentiality of all confidential information, know-how, and trade secrets included in the Acquired Intellectual Property. No such confidential information, know-how or trade secrets that is of material value have been disclosed to any Third-Party without having such Third-Party execute a written agreement restricting the disclosure and use thereof. Seller has not received any written notice from any such Third-Party indicating that there has been any unauthorized use or disclosure of any confidential information, know-how, or trade secrets included in the Acquired Intellectual Property.

(g) No Infringement by Third-Parties. No Acquired Intellectual Property or Licensed Intellectual Property is being or has been infringed, misappropriated or violated by any Third-Party. Since June 4, 2015, Seller has not notified any Third-Party (including any demand letter, unsolicited offer to license or any cease and desist letter) or made any assertions to any Third-Party that such Third-Party is infringing, misappropriating or violating any Acquired Intellectual Property or Licensed Intellectual Property.

(h) No Infringement by Seller. The Acquired Intellectual Property, the Licensed Intellectual Property and Seller's conduct of the Implant Activities do not violate, infringe, misappropriate, or unlawfully use the Intellectual Property of any Third-Party. Neither Seller nor any of its Affiliates has received a cease and desist letter related to Seller's use of Third-Party Intellectual Property related to the Implant Activities. No Third-Party has notified Seller or any of its Affiliates in writing that Seller or its Affiliates requires a license to use any Third-Party's Intellectual Property related to the Implant Activities. Neither Seller nor any of its Affiliates has received any unsolicited written offer to license any Third-Party's Intellectual Property with respect to the Implant Activities.

(i) Employee and Contractor Agreements. All current and former employees, contractors and consultants of Seller and its Affiliates who are or were involved in the creation or development of any of the Acquired Intellectual Property or Licensed Intellectual Property have assigned or are obligated to assign to Seller or its Affiliates all right, title and interest thereof in any material Intellectual Property created by such employees, contractors and consultants. No current employee of Seller is in violation of any term of any such agreement.

(j) No Government Funding. No funding, facilities, resources or personnel of any Governmental Body or any university, college, other educational institution, multi-national, bi-national or international organization or research center was used in connection with the development or creation, in whole or in part, any Acquired Intellectual Property or Licensed Intellectual Property.

3.5 Systems. Seller has implemented and maintained, consistent with industry standard practices and its contractual obligations, all security and other measures necessary to protect all software, computer hardware (whether general or special purpose), platforms, peripherals, and other similar or related items of automated, computerized and/or software systems and any other information technology (IT) systems included in the Acquired Assets (the “Systems”) and from unauthorized access, use, modification, disclosure or other misuse. The Systems are in sufficiently good working condition.

3.6 Acquired Contracts. Seller has delivered to Purchaser a complete copy of each Acquired Contract. With respect to each Acquired Contract, assuming the due authorization, execution and delivery thereof by the other party or parties thereto: (a) such Acquired Contract is enforceable and in full force and effect with respect to Seller, and is legal, valid, binding, enforceable and in full force and effect with respect to each other party thereto, in either case subject to the effect of bankruptcy, insolvency, moratorium or other similar laws affecting the enforcement of creditors’ rights generally and except as the availability of equitable remedies may be limited by general principles of equity; (b) such Acquired Contract will continue to be enforceable and in full force and effect immediately following the Closing in accordance with its terms as in effect prior to the Closing, subject to the effect of bankruptcy, insolvency, moratorium or other similar laws affecting the enforcement of creditors’ rights generally and except as the availability of equitable remedies may be limited by general principles of equity; and (c) neither Seller nor, to Seller’s Knowledge, any other party is in material breach or default, and no event has occurred that with notice or lapse of time would constitute a material breach or default by Seller or, to Seller’s Knowledge, by any such other party, or permit termination, modification or acceleration, under such Acquired Contract. Except as set forth on Schedule 3.6, no prior consent of any party to an Acquired Contract is required for the consummation by Seller of the transactions contemplated hereby to be in compliance with the provisions of such Acquired Contract or to avoid the termination of, the loss of any right under or the incurrence of any obligation under, such Acquired Contract.

3.7 Environmental Matters.

(a) Except as set forth on Schedule 3.7, Seller and its Affiliates are and have been in compliance in all material respects with applicable Environmental Laws with respect to Seller’s conduct of the Implant Activities, and except for those matters which have been fully resolved without ongoing obligations or costs, there are no actions under Environmental Laws pending or, to Seller’s Knowledge, threatened against or affecting Seller’s conduct of the Implant

Activities or operation of the Acquired Assets. Except as set forth on Schedule 3.7, Seller has not received any written demands, claims, information requests or other notices (i) alleging noncompliance with or violation of Environmental Laws by Seller with respect to the Implant Activities or the Leased Property, or (ii) asserting against or seeking to impose on Seller any material liability, obligation or financial responsibility for any investigation, cleanup, removal, containment or any other remediation under any Environmental Law with respect to the Implant Activities or the Leased Property.

(b) Seller holds and maintains in full force and effect or has timely applied for all Environmental Permits required for Seller's occupation of the Leased Property and conduct of the Implant Activities as currently conducted, and Seller's ownership, operation and use of the Acquired Assets is in compliance in all material respects with all of the requirements and limitations included in such Environmental Permits.

(c) Seller has not caused, permitted or contributed to a release of Hazardous Materials on the Leased Property, and Seller has not arranged by contract, agreement, or otherwise for the transportation, treatment or disposal of Hazardous Materials from the Leased Property or in connection with the Implant Activities, in each case that would reasonably be expected to result in any material liability of Seller under any Environmental Law. The Leased Property is not listed on, nor has it been proposed for listing on, the National Priorities List under CERCLA, or any similar state list.

3.8 Real Property. There are no material adverse physical conditions affecting the premises that are being leased to Purchaser under the Lease (the "Leased Property") or any of the facilities, buildings, component parts, other constructions, structures, erections, improvements or fixtures located on the Leased Property. Neither Seller, nor any Affiliate of Seller, has received written notice from any Governmental Body asserting that the Leased Property, or the use thereof by Seller in the conduct of the Implant Activities, is in violation of any applicable law. The facilities, buildings, component parts, other constructions, structures, erections and improvements on the Leased Property are in good condition and repair, subject to ordinary wear and tear.

3.9 Ownership of Acquired Assets.

(a) Seller owns the Acquired Assets free and clear of any Encumbrances.

(b) The Acquired Equipment is in good operating condition and repair, and is adequate for the uses to which it is being put, and none of the Acquired Equipment is in need of maintenance or repairs except for ordinary, routine maintenance and repairs.

(c) The Acquired Inventory consists of a quality and quantity usable and salable in the ordinary course of Seller's business consistent with past practices.

(d) The Acquired Inventory delivered to Purchaser at the Closing shall consist of the raw materials, work-in-process and finished goods described on Schedule 1.1(d), excluding such raw materials and work-in-process described thereon that was utilized by Seller in the ordinary course after November 5, 2019 through the Closing and any finished goods delivered to Purchaser prior to the Closing.

3.10 Compliance With Laws. Except as set forth on Schedule 3.3 and Schedule 3.7, Seller has complied with, and is currently in compliance with, in each case in all material respects, and has not received any written notices of material violation with respect to, any applicable law or regulation with respect to Seller's conduct of the Implant Activities, ownership or operation of the Acquired Assets, use of the Leased Property and employment of the Transferred Employees.

3.11 [***].

3.12 Approvals. All Approvals required for Seller to conduct the Implant Activities as currently conducted or for the ownership and use of the Acquired Assets and the Leased Property by Seller have been obtained by Seller and are valid and in full force and effect. All fees and charges with respect to such Approvals as of the date hereof have been paid in full. Schedule 3.12 sets forth all Approvals held by Seller and used in or required for its conduct of the Implant Activities (other than Approvals held by Seller as the provider of goods or services to Third-Parties or as the owner of, or landlord with respect to, the Leased Property and which Purchaser will not need, assuming for purposes of this parenthetical that Purchaser will conduct the Implant Activities after the Closing at the Leased Property). No event caused or permitted by Seller or its Affiliates has occurred that, with or without notice or lapse of time or both, would reasonably be expected to result in the revocation, suspension, lapse or limitation of any such Approval.

3.13 Absence of Unlawful Payments. Neither Seller nor any director, officer, employee or, to Seller's Knowledge, agent or representative of Seller, in the conduct of the Implant Activities, has offered, authorized, made, paid or received any bribes, kickbacks, or other similar unlawful payments or unlawful offers or transfers of value in connection with obtaining or retaining business relating to the Implant Activities or to secure an unlawful advantage to or from any person, or otherwise committed, in the conduct or furtherance of the Implant Activities, any violation of any applicable anti-corruption law or regulation, including the U.S. Foreign Corrupt Practices Act, 15 U.S.C. 78dd et seq.

3.14 Tax Matters. Seller has timely filed all Tax Returns required to be filed by it with respect to the Implant Activities and the Acquired Assets, and each such Tax Return has been prepared in all respects in material compliance with all applicable laws and regulations. All Taxes for which Seller may have any liability as of the Effective Date (whether or not shown on any Tax Return) with respect to the Implant Activities and the Acquired Assets have been timely paid or accrued in full. Seller has properly classified all service providers involved in the Implant Activities as employees or independent contractors for Tax purposes and there have been no notices from or claims by any Governmental Body relating to such classification. There is no action, suit, taxing authority proceeding or audit with respect to any Taxes now in progress, pending or, to Seller's Knowledge, threatened against or with respect to the Implant Activities or the Acquired Assets. No deficiency or proposed adjustment which has not been settled or otherwise resolved for any amount of Tax has been proposed, asserted or assessed by any taxing authority against Seller with respect to the Implant Activities or the Acquired Assets.

3.15 Employee Matters.

(a) Except for the existence of accrued but unused or unpaid vacation benefits as set forth on Schedule 1.4(c), neither the execution and delivery of this Agreement nor any Ancillary Agreement, nor the consummation of the transactions contemplated hereby or thereby, or any termination of employment or service with Seller in connection therewith will result in any required payment (including severance, golden parachute, bonus or otherwise) becoming due to any Transferred Employee.

(b) Seller (i) has provided, or will provide, all Transferred Employees with all wages, salaries, benefits and other compensation that is due to be paid to or on behalf of such employees prior to the Closing, and (ii) has withheld and reported, or will withhold and report, all amounts required by law to be withheld and reported with respect to such wages, salaries and other compensation to the Transferred Employees. Seller has no direct or indirect liability with respect to any misclassification of any person engaged in the Implant Activities as an independent contractor rather than as an employee or any misclassification of any Transferred Employee in terms of his or her exempt or non-exempt status under applicable wage and hour laws.

(c) No work stoppage or labor strike against Seller by employees engaged in the Implant Activities is pending or, to Seller's Knowledge, threatened. To Seller's Knowledge, there are no activities or proceedings of any labor union, labor organization or other employee collective group to organize any employees engaged in the Implant Activities. Seller is not presently, nor has it been in the past, a party to, or bound by, any collective bargaining agreement or union contract with respect to employees engaged in the Implant Activities.

3.16 Securities.

(a) Purchaser's agreement to issue the Shares to Seller is being made in reliance upon Seller's representation to Purchaser, which by Seller's execution of this Agreement, Seller hereby confirms, that the Shares will be acquired for investment for Seller's own account, not as a nominee or agent, and not with a view to the resale or distribution of any part thereof in any underwriting or similar capacity. Seller further represents that Seller does not presently have any contract, undertaking, agreement or arrangement with any person to sell, transfer or grant participations to such person or to any third person, with respect to any of the Shares.

(b) Seller understands that the offer and sale of the Shares has not been, and will not be, registered under the Securities Act of 1933, as amended (the "Securities Act"), by reason of a specific exemption from the registration provisions of the Securities Act which depends upon, among other things, the bona fide nature of the investment intent and the accuracy of the Seller's representations in this Section 3.16. Seller understands that the Shares are "restricted securities" under applicable U.S. federal and state securities laws and that, pursuant to these laws, Seller must hold the Shares indefinitely unless the offer and sale thereof is registered with the Securities and Exchange Commission and qualified by state authorities, or an exemption from such registration and qualification requirements is available.

(c) Seller is an “accredited investor” as defined in Rule 501(a) of Regulation D promulgated under the Securities Act. Seller has had an opportunity to discuss Purchaser’s business, management, financial affairs and the terms and conditions of Seller’s investment in the Shares the offering of the Securities with the Company’s management and has knowledge and experience in financial and business matters as to be capable of evaluating the merits and risks of its prospective investment in the Shares.

3.17 Disclaimer of Representations and Warranties; Purchaser’s Acknowledgement.

(a) EXCEPT AS SET FORTH IN THIS ARTICLE III, SELLER IS SELLING, ASSIGNING, CONVEYING, TRANSFERRING AND DELIVERING ALL OF ITS RIGHT, TITLE AND INTEREST IN, TO AND UNDER THE ACQUIRED ASSETS AND THE ASSUMED LIABILITIES TO PURCHASER, AND SELLER IS LICENSING THE LICENSED INTELLECTUAL PROPERTY TO PURCHASER, AS OF THE CLOSING ON AN AS-IS, WHERE-IS BASIS WITHOUT ANY REPRESENTATIONS, WARRANTIES OR GUARANTEES OF ANY KIND, EXPRESS OR IMPLIED, INCLUDING ANY REPRESENTATIONS, WARRANTIES OR GUARANTEES RELATING TO THE MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, SUFFICIENCY, CONDITION, ENFORCEABILITY, OPERATION, USE OR USEFULNESS OF THE ACQUIRED ASSETS OR THE LICENSED INTELLECTUAL PROPERTY, INCLUDING FURTHER WHETHER THE ACQUIRED INTELLECTUAL PROPERTY OR THE LICENSED INTELLECTUAL PROPERTY INFRINGES, MISAPPROPRIATES OR VIOLATES ANY INTELLECTUAL PROPERTY RIGHTS OF ANOTHER PERSON OR ENTITY. SELLER DISCLAIMS ALL REPRESENTATIONS, WARRANTIES, GUARANTEES AND STATEMENTS OF EVERY KIND, EXPRESS OR IMPLIED, RELATING TO THE ACTIVITIES OF SELLER AND ITS AFFILIATES, THE ACQUIRED ASSETS, THE ASSUMED LIABILITIES, THE LICENSED INTELLECTUAL PROPERTY AND ALL OTHER MATTERS INVOLVING OR RELATING TO THE TRANSACTIONS CONTEMPLATED AND EFFECTED BY THIS AGREEMENT EXCEPT AS EXPRESSLY SET FORTH IN THIS ARTICLE III. SELLER’S LIABILITY WITH RESPECT TO THE REPRESENTATIONS AND WARRANTIES OF SELLER IN THIS ARTICLE III ARE SUBJECT TO THE LIMITATIONS AND OTHER TERMS SET FORTH IN SECTION 6.1(c).

(b) PURCHASER ACKNOWLEDGES THAT EXCEPT AS EXPRESSLY SET FORTH IN THIS ARTICLE III, NEITHER SELLER NOR ANY OF ITS AFFILIATES HAS MADE ANY REPRESENTATION, WARRANTY, GUARANTEE OR OTHER STATEMENT OF ANY KIND, EXPRESS OR IMPLIED, RELATING TO THE ACTIVITIES OF SELLER, ITS AFFILIATES OR ANY SELLER REPRESENTATIVE, INCLUDING SELLER’S CONDUCT OF THE IMPLANT ACTIVITIES, THE IMPLANTS, THE ACQUIRED ASSETS, THE ASSUMED LIABILITIES, THE LICENSED INTELLECTUAL PROPERTY OR ANY OTHER MATTER RELATING TO THE TRANSACTIONS CONTEMPLATED AND EFFECTED BY THIS AGREEMENT OR THE ANCILLARY AGREEMENTS (OTHER THAN THE SUPPLY AGREEMENT).

(c) THE LIMITATIONS, DISCLAIMERS AND ACKNOWLEDGMENTS IN THIS SECTION 3.17 SHALL NOT EXCULPATE SELLER FROM ANY LIABILITY TO PURCHASER TO THE EXTENT IT IS DETERMINED BY A COURT OF COMPETENT JURISDICTION THAT SUCH LIABILITY IS THE RESULT OF SELLER’S FRAUD WITH RESPECT THE REPRESENTATIONS AND WARRANTIES OF SELLER SET FORTH IN THIS ARTICLE III.

ARTICLE IV
PURCHASER'S REPRESENTATIONS AND WARRANTIES

Purchaser represents and warrants to Seller that the statements contained in this Article IV are accurate as of the Closing.

4.1 Organization, Authority and Enforceability.

(a) Purchaser is a corporation duly organized, validly existing and in good standing under the laws of the State of Delaware, has or will have all requisite corporate power and corporate authority to own, lease and operate the Acquired Assets and conduct the Implant Activities, and is duly qualified to do business and is in good standing as a foreign corporation in the State of Wisconsin. Purchaser is not in violation of any of the provisions of its certificate of incorporation or bylaws.

(b) Purchaser has the requisite corporate power and corporate authority to enter into this Agreement and the Ancillary Agreements and to consummate the transactions contemplated hereby and thereby. The execution and delivery of this Agreement and the Ancillary Agreements, and the consummation of the transactions contemplated hereby and thereby, have been duly authorized by all necessary corporate action of Purchaser.

(c) This Agreement has been, and each Ancillary Agreement when executed and delivered will be, duly executed and delivered by Purchaser, and, assuming the due execution and delivery by Seller, constitutes, or will constitute, the valid and binding obligation of Purchaser enforceable against Purchaser in accordance with their terms, except as such enforceability may be limited by bankruptcy, insolvency, moratorium or other similar laws affecting or relating to creditors' rights generally, and is subject to general principles of equity.

(d) The execution and delivery of this Agreement and each Ancillary Agreement, and the consummation of the transactions contemplated hereby and thereby, will not, conflict with, or result in any violation of, or default under (with or without notice or lapse of time, or both), or give rise to a right of termination, cancellation or acceleration of any material obligation or loss of any material benefit under (i) any provision of the certificate of incorporation or bylaws of Purchaser, or (ii) any applicable law.

(e) Except as set forth on Schedule 4.1(e), no consent, approval, order or authorization of, or registration, declaration or filing with, any Governmental Body is required by Purchaser in connection with the execution and delivery of this Agreement, the Ancillary Agreements, or the consummation of the transactions contemplated hereby or thereby.

4.2 Encumbrances. To Purchaser's Knowledge, there are no Encumbrances or any threatened Legal Proceedings related to or affecting the Implant Activities, the Acquired Assets or the Licensed Intellectual Property that have not been disclosed in the Disclosure Schedules. To Purchaser's Knowledge (a) Seller's representations and warranties in Sections 3.4(b) (first, second and third sentences thereof), 3.4(d), 3.4(e), 3.4(f) (second sentence thereof) 3.4(g), 3.4(h) (first sentence thereof) and 3.4 (i) are accurate, and (b) there are no facts, circumstances or occurrences that would reasonably be expected to result in any of Seller's representations and warranties in such sections being inaccurate, in each case as qualified by the Disclosure Schedules.

4.3 Solvency. Purchaser is not Insolvent and will not be rendered Insolvent by any of the transactions contemplated or effected by this Agreement or the Ancillary Agreements.

4.4 Valid Issuance of Shares. The Shares, when issued and delivered in accordance with the terms and for the consideration set forth in this Agreement, will be duly authorized, validly issued, fully paid and non-assessable and free of restrictions on transfer, other than restrictions on transfer under the Lockup Agreement and applicable state and federal securities laws, and liens or Encumbrances created by or imposed by Seller, including any options, call, preemptive, subscription or similar rights. Assuming the accuracy of the representations of Seller in Section 3.16, the Shares will be issued in compliance with all applicable federal and state securities laws. Upon their issuance, the Seller will obtain good and valid title to the Shares. The issuance of the Shares does not require any vote or other approval or authorization of any holder of any capital stock of Purchaser.

4.5 Capital Stock. The authorized shares of capital stock of Purchaser consist of 200,000,000 shares of Purchaser Common Stock and 10,000,000 shares of preferred stock. As of August 1, 2019, 49,291,645 shares of Purchaser Common Stock were issued and outstanding and no shares of such preferred stock were outstanding. All of the issued and outstanding shares of Purchaser Common Stock are duly authorized, validly issued, fully paid and non-assessable.

4.6 SEC Documents: Absence of Certain Changes.

(a) Since December 31, 2018, Purchaser has filed with, or furnished to, as applicable, the Securities and Exchange Commission all registration statements, prospectuses, reports, forms, statements, schedules, certifications and other documents required to be filed with or furnished to, as applicable, the Securities and Exchange Commission by Purchaser (such documents filed or furnished since December 31, 2018, together with all exhibits and schedules thereto and all information incorporated therein by reference, collectively, the "Purchaser SEC Documents"). As of their respective dates, or if amended, as of the date of the last such amendment, the Purchaser SEC Documents (i) complied in all material respects with the requirements of the Securities Act, the Securities Exchange Act of 1934, as amended (the "Exchange Act"), and the Sarbanes-Oxley Act of 2002, as amended (to the extent then applicable), and (ii) did not contain any untrue statement of a material fact or omit to state a material fact required to be stated therein or necessary in order to make the statements therein, in light of the circumstances under which they were made, not misleading in any material respect.

(b) Each of the consolidated financial statements of Purchaser (including, in each case, any related notes thereto) contained in the Purchaser SEC Documents (i) was prepared in accordance with generally accepted account principles applied on a consistent basis throughout the periods involved (except as may be indicated in the notes thereto) and (ii) fairly presents in all material respects, as applicable, the consolidated financial position of Purchaser and its subsidiaries as of the respective dates thereof and the consolidated results of Purchaser's and its subsidiaries' operations and cash flows for the periods indicated (except (A) in the case of each of

sub-clauses (i) and (ii), that Purchaser's unaudited interim financial statements were subject to normal year-end and quarter-end adjustments, and subject to the absence of footnotes in such unaudited interim financial statements, and (B) in the case of clause (ii), for Purchaser unaudited pro forma financial statements filed in connection with a material acquisition).

(c) Since December 31, 2018 through the Closing Date, there has been no material adverse effect on the business, financial condition or results of operations of Purchaser and its subsidiaries, taken as a whole.

ARTICLE V
ADDITIONAL COVENANTS

5.1 Retained Assets. For a period of two (2) years following the Closing, Purchaser and Seller shall reasonably cooperate to identify any Retained Assets that are necessary for Purchaser to use the Acquired Assets and the Licensed Intellectual Property after the Closing to engage in the Implant Activities, and discuss the possibility of making such Retained Assets reasonably available to Purchaser for a reasonable period after the Closing for the limited purpose of Purchaser engaging in the Implant Activities on other terms and subject to other conditions mutually agreed upon by Purchaser and Seller in writing. Purchaser acknowledges that it may not be possible or reasonable for Seller to make such Retained Assets available to Purchaser, in which case Seller shall have no obligation or liability to Purchaser relating to this Section 5.1. [***].

5.2 Seller's Employees.

(a) On the day immediately following the Closing Date, Purchaser shall deliver to each employee of Seller identified on Schedule 5.2(a) (the "Potential Employees") written offers of employment with Purchaser to commence no later than November 8, 2019 (each, an "Employment Offer"). Each Potential Employee who accepts an Employment Offer shall be referred to herein as a "Transferred Employee." Following the Closing, Purchaser shall permit the Transferred Employees to use the unused and unpaid vacation benefits described on Schedule 1.4(c) without any reimbursement, compensation or other payment from Seller or any of its Affiliates.

(b) As of the Closing Date, Purchaser shall provide each Transferred Employee with compensation and employee benefits that, in the aggregate, are at least as favorable as those provided to similarly situated employees of Purchaser, excluding the value of any equity security grants.

5.3 Employee Non-Solicitation. For a period of [***] following the Closing Date, Seller shall not actively solicit for employment or hire any employee, consultant or contractor of Purchaser or in any way interfere with the relationship between Purchaser and its employees, contractors and consultants, and Purchaser shall not actively solicit for employment or hire any employee, consultant or contractor of Seller or in any way interfere with the relationship between Seller and its employees, contractors or consultants; provided, however, neither party shall be prohibited from (a) soliciting or hiring any employee of the other party after such employee's employment with the other party has been terminated; or (b) placing public advertisements or conducting other forms of general solicitation that are not specifically directed at the other party's employees, or hiring any employee responding to such advertisement or general solicitation.

5.4 Transfer Taxes. Seller shall pay in a timely manner all personal property, sales, use and transfer Taxes, fees, assessments and charges ("Transfer Taxes") resulting from or payable in connection with the transactions contemplated and effected by this Agreement and the Ancillary Agreements to the extent such Transfer Taxes are imposed on Seller by any legal requirement. Purchaser shall pay in a timely manner all Transfer Taxes resulting from or payable in connection with the transactions contemplated and effected by this Agreement and the Ancillary Agreements to the extent such Transfer Taxes are imposed on Purchaser by any legal requirement. Purchaser and Seller shall reasonably cooperate in timely making all filings, returns, reports and forms as may be required to comply with the provisions of law in connection with the payment of any such Transfer Taxes; provided, however, that the party required under law shall timely file any required Tax Returns for such Taxes.

5.5 Public Announcements. Purchaser and Seller shall consult with each other before issuing any press release or otherwise making any public statement or disclosure (a "Public Disclosure") regarding the terms of this Agreement or the Ancillary Agreements and the transactions contemplated hereby and thereby, and neither Purchaser nor Seller shall make any Public Disclosure without the prior written approval of the other, which will not be unreasonably conditioned, delayed or withheld; provided, however, that in no event shall the terms of this Section 5.5 prevent a party from timely making any Public Disclosure as may be required by applicable law or any applicable securities exchange requirement. For the avoidance of doubt, from and after the Closing, the terms of this Section 5.5 shall not apply to press releases, public statements or other disclosures by Purchaser or its Affiliates to the extent relating to Purchaser's or its Affiliates' ownership, operation or use of the Acquired Assets after the Closing or Purchaser's or its Affiliates' Implant related activities after the Closing.

5.6 Further Assurances. For a period of two (2) years following the Closing Date, each party, at the reasonable request of the other party, shall execute and deliver such other instruments and do and perform such other acts and things as may be reasonably necessary for effecting the consummation of this Agreement and the transactions contemplated by this Agreement and the Ancillary Agreements as and to the extent set forth herein and therein, including reasonable assistance with respect to obtaining any Approval required by Purchaser to conduct the Implant Activities after the Closing at the Leased Property.

5.7 Cooperation; Records and Documents; Privileged Communications.

(a) For a period of two (2) years following the Closing Date (the “Cooperation Period”) and for so long as a Cooperation Event commenced prior to expiration of the Cooperation Period is ongoing, if either party (the “Contesting Party”) is actively contesting, defending against, or undertaking any activity or internal investigation in preparation for or that may reasonably be expected to result in any Legal Proceeding involving the Contesting Party or its Affiliate (including any audit by a Governmental Body) in connection with or related to any fact, situation, circumstance, status, condition, activity, practice, plan, occurrence, event, incident, action, failure to act or transaction prior to the Closing involving the Implant Activities and not involving or expected to involve an indemnification claim under Article VI (any such situation, a “Cooperation Event”), the other party shall (i) cooperate with the Contesting Party and its legal counsel in connection with such Cooperation Event, (ii) make available its personnel, and (iii) provide such testimony and access to its books and records, in each case as may be reasonable in connection with the Cooperation Event, at the sole cost and expense of the Contesting Party. The provisions of this Section 5.7(a) shall not be applicable in the case of any fact, situation, circumstance, status, condition, activity, practice, plan, occurrence, event, incident, action, failure to act or transaction expected to result in any Legal Proceeding by Seller (or its Affiliates, successors or assigns) against Purchaser (or its Affiliates, successors or assigns) or by Purchaser (or its Affiliates, successors or assigns) against Seller (or its Affiliates, successors or assigns), including in connection with the transactions contemplated by this Agreement or the Ancillary Agreements, or if the application of such provisions would unreasonably or adversely affect the business or rights, privileges or other interests of the party (or its Affiliates, successors or assigns) otherwise required to comply therewith.

(b) During the Cooperation Period, Seller shall provide to Purchaser and its representatives, at Purchaser’s reasonable request (subject to applicable law and any limitations that are required to preserve any applicable privilege or third party confidentiality obligation), with copies, or, if required by applicable law, originals, of those records and documents in Seller’s possession related to the Implant Activities, the Acquired Assets, the Licensed Intellectual Property or the Assumed Liabilities (to the extent not already transferred to Purchaser) as are reasonably necessary for, and for the sole and exclusive purpose of, Purchaser’s preparation of financial statements, Tax Returns and audits. During the Cooperation Period, Purchaser shall provide to Seller and its representatives, at Seller’s reasonable request (subject to applicable laws and any limitations that are reasonably required to preserve any applicable privilege or third party confidentiality obligation), with copies, or, if required by applicable law, originals, of those records and documents covering any period prior to the Closing related to the Implant Activities or the Acquired Assets as are necessary for, and for the sole and exclusive purpose of, Seller’s preparation of financial statements, Tax Returns and audits.

(c) Notwithstanding the inclusion of any pre-Closing privileged communications among Seller, any of Seller's Affiliates or their respective legal counsel, including any pre-Closing attorney work-product created thereby (collectively, "Pre-Closing Privileged Information"), in any Acquired Intellectual Property or Acquired Books and Records delivered to Purchaser in connection with this Agreement and the transactions contemplated hereby, such inclusion or delivery shall not be deemed to be a waiver of attorney-client privilege with respect to such Pre-Closing Privileged Information, Seller or its Affiliate shall retain the right to assert any privileges with respect thereto, and Purchaser shall refrain from using or relying on any Pre-Closing Privileged Information.

5.8 Assignment of Contracts and Permits.

(a) Notwithstanding any other provision of this Agreement, this Agreement does not constitute an agreement to assign or transfer, or effect an assignment or transfer, of any Acquired Approval or Acquired Contract, or any claim or right or any benefit arising thereunder or resulting therefrom, if Seller has not obtained a required consent to the assignment or transfer thereof as of the Closing and an attempted assignment or transfer thereof without the consent of a Third-Party (including any Governmental Body) would constitute a breach or other contravention thereof or a violation of law or would in any way adversely affect the rights of Seller or Purchaser thereto or thereunder.

(b) As to any Acquired Contract or Acquired Approval referred to in Section 5.8(a), Seller agrees to continue to use its commercially reasonable efforts after the Closing to obtain any required consent(s). If, on the Closing Date, any such consent(s) is not obtained, or if an attempted transfer or assignment of any Acquired Approval or Acquired Contract would be ineffective or a violation of law or would impair Purchaser's rights thereto or thereunder so that Purchaser would not receive all such rights, then Seller and Purchaser will cooperate in any lawful and commercially reasonable arrangement, to the extent such cooperation would not result in a breach of the terms of such Acquired Contract, and to the extent permitted under such Acquired Approval, and, in each case, not prohibited under applicable law, which will provide Purchaser the obligations and benefits of any such Acquired Approval or Acquired Contract, including subcontracting, licensing, sublicensing, leasing or subleasing to Purchaser any or all of Seller's rights and obligations with respect to such Acquired Approval or Acquired Contract, and Seller and Purchaser shall comply with the terms of such arrangement. If and when such consents are obtained or such other required actions have been taken, the transfer of such Acquired Approval or Acquired Contract will be effected in accordance with the terms of this Agreement.

5.9 Confidentiality.

(a) From and after the Closing, notwithstanding any existing obligation to the contrary, including obligations in the Manufacturing Agreement or the Services Agreement, Purchaser shall have no obligations of confidentiality or limited use with respect to any Acquired Confidential Information.

(b) From and after the Closing, Seller shall, and shall cause its Affiliates to, maintain the confidentiality and secrecy of the Acquired Confidential Information. A disclosure by Seller or any of its Affiliates of any of the Acquired Confidential Information (i) in response to an order by a court or Governmental Body; (ii) as otherwise required by applicable law; or (iii) necessary to establish any rights of Seller or its Affiliates shall not be considered to be a breach of this Section 5.9(b) by Seller; provided, however, that Seller provides prompt prior written notice, if legally permissible, thereof to Purchaser to enable Purchaser to seek a protective order or take similar action preventing the disclosure. From and after the Closing, Seller shall, and shall cause its Affiliates to, not use the Acquired Confidential Information for any purpose, except purposes authorized by Purchaser in writing, including the express authorization of Purchaser as set forth in the Transition Services Agreement. Seller shall take, at its sole expense, reasonable actions necessary to ensure that it and its Affiliates comply with the obligations set forth in this Section 5.9(b). Seller shall be liable for any failure by its Affiliates (or their representatives) to comply with the obligations set forth in this Section 5.9(b).

5.10 R&W Insurance Policy. From and after the Closing, Purchaser shall, and Purchaser shall cause its Affiliates, to refrain from amending or otherwise modifying the R&W Insurance Policy in any way that changes any of the insurer's rights against or with respect to Seller or its Affiliates, including the insurer's rights of subrogation.

5.11 Certain Securities Law Matters. Upon the request of Seller or any designee thereof, in connection with any sale of the Shares pursuant Rule 144 promulgated by the Securities and Exchange Commission under the Securities Act ("Rule 144"), and subject to the restrictions of the Lockup Agreement, Purchaser will cooperate with Seller or such designee to facilitate the timely preparation and delivery of the Shares to be delivered to a transferee free of all restrictive legends. Upon the permitted sale or other transfer of any Shares (including subject to compliance with the Lockup Agreement), Purchaser shall deliver or cause to be delivered book-entry shares or certificates not bearing any restrictive legends representing the Shares, and cause such Shares to be issued in such denominations and registered in such names in accordance with the instructions delivered by Seller at least two (2) business days prior to any such permitted sale or other transfer of Shares and instruct any transfer agent and registrar of Shares to release any stop transfer orders in respect thereof. Purchaser will take any other commercially reasonable actions (excluding, for clarity, marketing efforts) as may be reasonably requested by Seller, at Seller's reasonable expense, in order to expedite or facilitate the disposition of the Shares as permitted by the Lockup Agreement and Rule 144.

5.12 Reports Under Exchange Act by the Company. With a view to making available to Seller the benefits of Rule 144 and any other rule or regulation of the Securities and Exchange Commission that may at any time permit Seller to sell the Shares to the public without registration, Purchaser will:

(a) make and keep available adequate current public information, as those terms are understood and defined in Rule 144;

(b) use reasonable best efforts to file with the Securities and Exchange Commission in a timely manner all reports and other documents required of Purchaser under the Securities Act and the Exchange Act; and

(c) furnish upon request to the extent accurate, a written statement by Purchaser that it has complied with the reporting requirements of Rule 144, the Securities Act and the Exchange Act.

5.13 Resale Registration Statement

(a) Purchaser will use commercially reasonable efforts to (i) file a resale registration statement pursuant to Rule 415 under the Securities Act with the SEC registering the resale of the Registrable Securities (the “Resale Shelf”) within 60 days of the Closing Date, (ii) have the Resale Shelf declared effective by the SEC as promptly as practicable after such filing and (iii) maintain the effectiveness of the Resale Shelf until such time as no Registrable Securities remain outstanding. Purchaser agrees to furnish to Seller such number of copies of a prospectus, including a preliminary prospectus, as required by the Securities Act, in order to facilitate the disposition of Registrable Securities. Purchaser agrees to take all commercially reasonable actions (excluding, for clarity, marketing efforts) as necessary and reasonably requested by Seller, at Seller’s expense, to expedite and facilitate disposition by Seller of Registrable Securities pursuant to the Registration Shelf.

(b) Notwithstanding Section 5.13(a):

(i) Purchaser shall not be required to file the Resale Shelf (or any amendment thereto) or, if the Resale Shelf has been filed but not declared effective by the SEC, request effectiveness of such Resale Shelf, or, if such Resale Shelf has been declared effective by the SEC, may suspend the use of any prospectus that is part of the Resale Shelf, for up to 60 calendar days from the date of the Suspension Notice (as defined below), by providing written notice to Seller if Purchaser shall have furnished to Seller a certificate signed by the Chief Executive Officer (or other authorized officer) of Purchaser stating that Purchaser’s Board of Directors has determined in its reasonable good faith judgment that the filing of the Resale Shelf (or any amendment thereto) or the request for effectiveness of such Resale Shelf should be delayed or the offer or sale of Registrable Securities pursuant to the Resale Shelf should be suspended (as applicable); provided that Purchaser may not invoke a delay or suspension pursuant to this Section 5.13(b)(i) for more than 60 calendar days in the aggregate in any 12 month period. Purchaser may invoke this Section 5.13(b)(i) only if Purchaser’s Board of Directors determines in good faith, after consultation with its legal counsel, that the filing of the Resale Shelf (or any amendment thereto), the request for effectiveness of such Resale Shelf or offer or sale of Registrable Securities pursuant to the Resale Shelf (as applicable) would reasonably be expected to: (A) have a material adverse effect on any proposal or plan by Purchaser or any of its subsidiaries to engage in any material acquisition of assets or stock (other than in the ordinary course of business) or any material merger, consolidation, tender offer, recapitalization, reorganization or other transaction involving Purchaser or any of its subsidiaries; or (ii) require premature disclosure of material non-public information (“MNPI”) that Purchaser has a bona fide business purpose for preserving as confidential; provided that a Suspension Event (as defined below) shall automatically expire upon the public disclosure of the information to which the MNPI relates.

(ii) In the case of an event that causes Purchaser to delay the filing or effectiveness of the Resale Shelf, or suspend the use of any prospectus that is part of the Resale Shelf, as set forth in Section 5.13(b)(i) (a “Suspension Event”), Purchaser shall give a notice to Seller (a “Suspension Notice”) of such delay or suspension and such notice shall state that such delay or suspension shall continue only for so long as the Suspension Event or its effect is continuing. Purchaser shall not include any MNPI in the Suspension Notice or otherwise provide such information to Seller unless specifically requested in writing. Seller shall not sell any Registrable Securities pursuant to the Resale Shelf at any time after it has received a Suspension Notice from Purchaser and prior to receipt of an End of Suspension Notice; provided that Seller may sell any Registrable Securities after receipt of a Suspension Notice so long as Seller has not received MNPI from Purchasers pursuant to any available exemption from registration under the Securities Act, including, without limitation, Rule 144 promulgated under the Securities Act. Seller may recommence sales pursuant to the Resale Shelf following further written notice to such effect (an “End of Suspension Notice”) from Purchaser, and such End of Suspension Notice shall be given by Purchaser to Seller promptly following the conclusion of any Suspension Event.

(iii) Notwithstanding any provision herein to the contrary, if Purchaser gives a Suspension Notice with respect to the Resale Shelf, Purchaser agrees that it shall:

(A) as promptly as practicable after Seller’s receipt of an End of Suspension Notice, if applicable, prepare a post-effective amendment or supplement to the registration statement or the prospectus or any document incorporated therein by reference, or file any required document so that, as thereafter delivered to purchasers of the Registrable Shares included therein, the prospectus will not include an untrue statement of a material fact or omit to state any material fact necessary to make the statements therein, in the light of the circumstances under which they were made, not misleading; and

(B) provide copies of any supplemented or amended prospectus necessary to resume sales, with respect to each Suspension Event.

(c) For purposes of this Section 5.13, “Registrable Securities” means the First Tranche Shares and Second Tranche Shares; provided, however, that as to any Registrable Securities, such securities shall irrevocably cease to constitute Registrable Securities upon the earliest to occur of:

(i) in the case of the First Tranche Shares, on the first day following November 7, 2023, in the event the First Tranche Trigger Event has not occurred;

(ii) in the case of the Second Tranche Shares, on the first day following November 7, 2023, in the event that the Second Tranche Trigger Event has not occurred;

(iii) the date on which such securities have been disposed of pursuant to the Resale Shelf;

(iv) the date on which all of such securities may be disposed of pursuant to Rule 144 of the Securities Act (provided that for purposes of this clause (iv), such date shall not be earlier than twelve (12) months after Purchaser issues such securities to Seller); and

(v) the date on which such securities cease to be outstanding.

ARTICLE VI
INDEMNIFICATION; REMEDIES

6.1 Indemnification and Reimbursement by Seller; Exclusive Remedy.

(a) Subject to the limitations and the other terms set forth in this Section 6.1, Seller shall defend, indemnify and reimburse Purchaser and its Affiliates against and for all claims, demands, causes of actions, expenses, damages, liabilities and losses (other than consequential, incidental, indirect, punitive or special damages or losses, and losses resulting from diminution in value or decrease in profits) actually and reasonably incurred by Purchaser or its Affiliates as a result of the failure of Seller to perform or comply with any agreement, covenant or obligation of Seller as set forth in this Agreement, the License Agreement, the Bill of Sale or the Assignment and Assumption Agreement, including Seller's failure to pay, perform and satisfy the Retained Liabilities as and to the extent described in Section 1.5 (collectively, "Purchaser Losses"), whether or not involving a Third-Party Claim.

(b) The agreements, covenants and obligations of Seller set forth in this Agreement, the License Agreement, the Bill of Sale and the Assignment and Assumption Agreement shall survive the Closing and serve as a basis for defense, indemnification or reimbursement by Seller pursuant to Section 6.1(a) indefinitely unless a shorter period expressly applies to the performance of or compliance with any such agreements, covenants and obligations, in which case such shorter period shall apply.

(c) Notwithstanding anything in this Agreement or the Ancillary Agreements to the contrary, the representations and warranties of Seller contained in Article III of this Agreement (i) shall terminate automatically as of, and shall not survive, the Closing, (ii) shall not result in any obligation or liability for Seller or its Affiliates or serve as the basis for or create any right or remedy against Seller or its Affiliates in the absence of Seller's Fraud with respect to such representations and warranties, and (iii) shall not serve as the basis for any delay or excuse in the performance of or compliance with any of Purchaser's agreements, covenants or obligations in this Agreement or any of the Ancillary Agreements. Neither Seller, its Affiliates nor any Seller Representative (collectively, the "Seller Releasees") shall have any obligation or liability, for indemnification, reimbursement or otherwise, relating to, arising out of, or in connection with the representations and warranties of Seller set forth in Article III of this Agreement, including for, or in connection with, any claims, demands, causes of action, expenses, damages, liabilities or losses not covered by the R&W Insurance Policy, except to the extent such claims, demands, causes of actions, expenses, damages, liabilities or losses result from Seller's Fraud with respect to such representations and warranties. Purchaser, for itself and on behalf of its Affiliates and their respective insurers (collectively, "Purchaser Releasers"), hereby unconditionally, forever and irrevocably waives all rights and remedies that Purchaser Releasers had, have or may have against any Seller Releasee, and hereby unconditionally, forever and irrevocably releases and discharges all Seller Releasees from all claims, demands, causes of action, expenses, damages, obligations, liabilities and losses that any Purchaser Releasers had, have or may have against any Seller Releasee, whether known or unknown, at law or in equity, in any way relating to, arising out of, or incurred in connection with the representations and warranties of Seller set forth in Article III of this Agreement, including the failure of any such representations or warranties to be complete or accurate, in whole or in part, except to the extent resulting from Seller's Fraud with respect to

such representations and warranties. Purchaser's sole and exclusive recourse for any and all claims, demands, causes of action, expenses, damages, liabilities and losses relating to or arising out of the representations and warranties of Seller set forth in Article III of this Agreement (except to the extent resulting from Seller's Fraud with respect to such representations and warranties) shall be to pursue recovery from the insurer of the R&W Insurance Policy, which recovery shall be subject to the terms, conditions and limitations set forth therein.

(d) [***].

(e) Purchaser's and its Affiliates' right to defense, indemnification and reimbursement from Seller pursuant to Section 6.1(a) is limited to, and constitutes Purchaser's and its Affiliates' sole and exclusive right and remedy against Seller, its Affiliates and their respective current or former directors, officers, employees, consultants and representatives (each a "Seller Representative") with respect to, Purchaser Losses.

(f) No Purchaser Releaser shall have any rights or remedies, at law or in equity, including to make any claims for damages, against any Seller Releasee, and Purchaser, for itself and on behalf of all Purchaser Releasers, hereby unconditionally, forever and irrevocably waives all rights and remedies that any Purchaser Releaser had, has or may have against any Seller Releasee, and hereby unconditionally, forever and irrevocably releases and discharges all Seller Releasees from all claims, demands, causes of actions, expenses, damages, obligations, liabilities and losses that any Purchaser Releaser had, has or may have against any Seller Releasee, whether known or unknown, at law or in equity, in any way relating to, arising out of or incurred in connection with (i) the transactions contemplated or effected by this Agreement and the License Agreement, including Seller's conduct in connection herewith or therewith, (ii) the Acquired Assets, the Assumed Liabilities and the Licensed Intellectual Property, including the ownership, operation and use of the Acquired Assets and the Licensed Intellectual Property prior to the Closing by Seller or its Affiliates or after the Closing by Purchaser, its Affiliates or their respective contract manufacturers, sub-contractors or similar Third-Parties acting on their behalf; (iii) the Implants and the Implant Activities, including the conduct of the Implant Activities prior to the Closing by Seller or its Affiliates or after the Closing by Purchaser, its Affiliates or their respective contract manufacturers, sub-contractors or similar Third-Parties acting on their behalf; and (iv) any other acts or omissions of any Seller Releasee prior to the Closing; provided, however, this Section 6.1(f) shall not apply to (A) Purchaser's and its Affiliates rights under Section 6.1(a) of this Agreement; (B) the obligations and liabilities of Seller under Section 1.5(b) of this Agreement, including Purchaser's and its Affiliates rights under the Termination and Release Agreement; (C) Seller's Fraud in connection the representations and warranties of Seller set forth in Article III of this Agreement, as and to the extent expressly set forth in, and limited by the terms of, this Agreement; (D) Purchaser's and its Affiliates rights under any of the Ancillary Agreements; (E) Purchaser's and its Affiliates' rights under the Tissue Expander Agreement; (F) the rights of Purchaser to seek specific performance under this Agreement; and (G) any act or omission of any Seller Releasee first occurring after the Closing.

(g) Consistent with the terms of this Section 6.1 (but without limiting Purchaser's rights under Section 7.10), neither Purchaser nor its Affiliates may set off any expenses, damages, losses or other amounts constituting Purchaser Losses to which Purchaser or its Affiliates may be entitled against any amounts owed or payable by Purchaser to Seller or its Affiliates under this Agreement or any of the Ancillary Agreements.

6.2 Indemnification and Reimbursement by Purchaser: Non-Exclusive Remedy.

(a) Purchaser shall defend, indemnify and reimburse Seller and its Affiliates against and for all claims, demands, causes of actions, expenses, damages, liabilities and losses (other than consequential, incidental, indirect, punitive or special damages or losses, and losses resulting from diminution in value or decrease in profits, and fines and penalties) actually and reasonably incurred by Seller or its Affiliates as a result of: (i) the failure of any representation or warranty of Purchaser set forth in Article IV of this Agreement to be accurate as of the Closing; (ii) the failure of Purchaser to perform or comply with any agreement, covenant or obligation of Purchaser as set forth in this Agreement, the License Agreement, the Bill of Sale or the Assignment and Assumption Agreement, including Purchaser's failure to pay, perform and satisfy the Assumed Liabilities as set forth in Section 1.4; (iii) the ownership, operation or use of any of the Acquired Assets or any of the Licensed Intellectual Property, including the sublicensing of any Licensed Intellectual Property, after the Closing by Purchaser, its Affiliates or their respective contract manufacturers, sub-contractors or other similar Third-Parties acting on their behalf; and (iv) the conduct of any of the Implant Activities after the Closing by Purchaser, its Affiliates or their respective contract manufacturers, sub-contractors or other similar Third-Parties acting on their behalf (collectively, "Seller Losses"), in each case whether or not involving a Third-Party Claim; provided, however, the foregoing clauses (iii) and (iv) shall not limit or otherwise affect either party's or its respective Affiliates' right to defense, indemnification or reimbursement from the other party or its Affiliates as and to the extent set forth in any Ancillary Agreement, the Tissue Expander Agreement or any other written agreement entered into between the parties at, as of or following the Closing. For the avoidance of doubt, and notwithstanding anything to the contrary, Purchaser's obligations to defend, indemnify and reimburse Seller and its Affiliates against and for all Seller Losses pursuant to this Section 6.2(a) shall not be subject to any time (except as set forth in Section 6.2(e)) or monetary limitations.

(b) The representations and warranties of Purchaser set forth in Article IV of this Agreement, and the agreements, covenants and obligations of Purchaser set forth in this Agreement, the License Agreement, the Bill of Sale and the Assignment and Assumption Agreement, shall survive the Closing and serve as a basis for defense, indemnification and reimbursement by Purchaser pursuant to Section 6.2(a) indefinitely unless a shorter period expressly applies to the performance of or compliance with such agreements, covenants and obligations, in which case such shorter period shall apply.

(c) PURCHASER'S OBLIGATION TO DEFEND, INDEMNIFY AND REIMBURSE SELLER AND ITS AFFILIATES FOR ALL SELLER LOSSES SHALL APPLY EVEN IF SUCH SELLER LOSSES ARE THE RESULT OF THE ACTS, OMISSIONS OR OTHER CONDUCT OF SELLER, ITS AFFILIATES OR ANY SELLER REPRESENTATIVE PRIOR TO THE CLOSING, INCLUDING THE NEGLIGENCE THEREOF.

(d) Seller's and its Affiliates' right to defense, indemnification and reimbursement from Purchaser pursuant to Section 6.2(a) shall not constitute Seller's or its Affiliates' sole or exclusive remedy against Purchaser with respect to Seller Losses or any other claims, demands, causes of action, expenses, damages, losses or liabilities, and such right shall fully exist even if Seller, its Affiliates or any Seller Representatives are or were aware of any facts, circumstances, conditions or occurrences, or have or had access to any information that could serve as or form a basis for defense, indemnification or reimbursement from Purchaser pursuant to Section 6.2(a); provided that, for clarity, any dispute arising with respect to the transactions contemplated by this Agreement shall be subject to the governing law, venue and other provisions of Section 7.4.

(e) The representations and warranties of Purchaser set forth in Section 4.6 shall terminate effective as of immediately after the Closing.

ARTICLE VII
MISCELLANEOUS

7.1 Notices. Any notice, request, demand, waiver, consent, approval or other communication that is required or permitted hereunder shall be in writing and shall be deemed provided or given (a) on the date delivered by a national courier service as established by the sender with evidence obtained from the courier, (b) on the date sent by email as established by the sender with confirmation of transmission from the recipient, or (c) on the fifth (5th) business day after the date mailed, by certified or registered mail, return receipt requested, postage prepaid. Such communications, to be valid, must be addressed as follows:

If to Purchaser, to:

Sientra, Inc.
420 S. Fairview Avenue, Suite 200
Santa Barbra, California 93117
Attn: [***]
Email: [***]

With a required copy to, which shall not constitute notice:

Sientra, Inc.
420 S. Fairview Avenue, Suite 200
Santa Barbara, CA 93117
Attn: [***]
Email: [***]

If to Seller, to:

Vesta Intermediate Funding, Inc.
[***]
[***]
[***]
[***]
[***]
[***]

With a required copy to, which shall not constitute notice:

[***]
[***]
[***]
[***]
[***]

or to such other address or to the attention of such other person or persons as the recipient has specified by prior written notice to the sending party. If more than one method for sending notice as set forth above is used, the earliest notice date established as set forth above shall control.

7.2 Amendments and Waivers. Any provision of this Agreement may be amended or waived if, and only if, such amendment or waiver is in writing and is signed, in the case of an amendment, by each party to this Agreement, or in the case of a waiver, by the party against whom the waiver is to be effective. No failure or delay by any party in exercising any right or privilege hereunder shall operate as a waiver thereof, nor shall any single or partial exercise thereof preclude any other or further exercise thereof or the exercise of any other right, power or privilege. To the maximum extent permitted by law, (a) no waiver that may be given by a party shall be applicable except in the specific instance for which it was given, and (b) no notice to or demand on one party shall be deemed to be a waiver of any obligation of such party or the right of the party giving such notice or demand to take further action without notice or demand.

7.3 Successors and Assigns. This Agreement may be assigned by either party without the prior written consent of the other party, provided that (i) the party assigning this Agreement shall provide the other party with written notice of such assignment within three (3) business days thereof, and (ii) the assignment of this Agreement shall not relieve the assigning party of its obligations hereunder or under any of the Ancillary Agreements. This Agreement shall be binding on, and inure to the benefit, of each party's successors and assigns.

7.4 Governing Law. This Agreement (and all claims relating to or arising out of this Agreement) shall be governed by and construed in accordance with the laws of the State of New York, excluding that State's choice-of-law principles. Both parties irrevocably consent and submit to the exclusive jurisdiction of the courts in New York County, New York, and the United States District Court for the Southern District of New York in connection with any litigation relating to or arising out of this Agreement, and both parties expressly waive any objection they have or may have as to personal jurisdiction, venue or convenient-forum status of any such courts collectively.

7.5 Counterparts. This Agreement may be executed in any number of counterparts, and either party may execute any such counterpart, each of which when executed and delivered shall be deemed to be an original and all of which counterparts taken together shall constitute one and the same instrument. This Agreement shall become effective when each party hereto shall have received a counterpart hereof signed by the other party hereto. The parties agree that the delivery of this Agreement and the Ancillary Agreements may be effected by means of an exchange of electronically scanned original signatures.

7.6 Third Party Beneficiaries. Except for any person or entity entitled to defense, indemnification or reimbursement pursuant to Article VII, including all Seller Releasees, this Agreement is solely for the benefit of the parties hereto and their respective permitted successors and assigns.

7.7 Entire Agreement. This Agreement and the Ancillary Agreements set forth the entire understanding of the parties with respect to the transactions contemplated hereby and thereby, and all previous agreements and understandings between the parties regarding the subject matter hereof and thereof, whether written or oral, are superseded by this Agreement and the Ancillary Agreements.

7.8 Captions. All captions and section headings contained in this Agreement, the Ancillary Agreements, and the schedules and exhibits hereto and thereto are for convenience of reference only, do not form a part of this Agreement and shall not affect in any way the meaning or interpretation of this Agreement.

7.9 Severability. Any provision of this Agreement that is invalid or unenforceable in any jurisdiction shall be ineffective to the extent of such invalidity or unenforceability without invalidating or rendering unenforceable the remaining provisions hereof, and any such invalidity or unenforceability in any jurisdiction shall not invalidate or render unenforceable such provision in any other jurisdiction.

7.10 Specific Performance. Each party acknowledges that the other party may be irreparably harmed and that damages may not be an adequate remedy at law in the event any of the covenants or obligations of the other party set forth in this Agreement are not performed thereby as set forth herein. Accordingly, each party may seek and may be entitled to an injunction or injunctions to prevent breaches of such covenants or obligations or to enforce specifically the terms thereof.

7.11 Interpretation.

(a) The meaning assigned to each term defined herein shall be equally applicable to both the singular and the plural forms of such term and vice versa, and words denoting either gender shall include both genders as the context requires.

(b) The terms “hereof,” “herein,” “herewith,” “hereunder” and words of similar import shall, unless otherwise stated, be construed to refer to this Agreement as a whole and not to any particular Appendix, Article, Section, Exhibit, Schedule or provision of this Agreement.

(c) Reference in this Agreement to a “party” or the “parties” means Purchaser or Seller individually or Purchaser and Seller collectively, as the context requires.

(d) The word “or” when used in this Agreement shall be deemed to mean “and/or.”

(e) The words “include,” “includes” and “including” when used in this Agreement shall be deemed to be followed by the words “without limitation,” unless otherwise specified.

(f) When reference is made in this Agreement to an Appendix, Article, Section, Exhibit or Schedule, such reference is to an Appendix, Article, Section, Exhibit or Schedule to this Agreement, unless otherwise specified.

(g) A reference to any party to this Agreement or any other agreement or document shall include such party’s successors and permitted assigns.

(h) The parties have participated jointly in the negotiation and drafting of this Agreement and the Ancillary Agreements. Any rule of construction or interpretation otherwise requiring this Agreement or the Ancillary Agreements to be construed or interpreted against any party by virtue of the authorship of this Agreement or the Ancillary Agreements shall not apply to the construction and interpretation hereof or thereof.

[Signatures Appear on the Following Page.]

IN WITNESS WHEREOF, Purchaser and Seller have caused this Asset Purchase Agreement to be duly executed by their respective authorized officers on the Effective Date.

PURCHASER

SIENTRA, INC.

/s/ Jeffrey Nugent

Signature

Jeffrey Nugent

Print Name

Chief Executive Officer

Title

SELLER

VESTA INTERMEDIATE FUNDING, INC.

/s/ Deborah A. Langer

Signature

Deborah A. Langer

Print Name

President

Title

Appendix A

“Acquired Assets” has the meaning set forth in Section 1.1.

“Acquired Books and Records” has the meaning set forth in Section 1.1(g).

“Acquired Contracts” has the meaning set forth in Section 1.1(e).

“Acquired Approvals” has the meaning set forth in Section 1.1(b).

“Acquired Confidential Information” means trade secrets, know-how, confidential and proprietary information and data that relates exclusively to the Implant Activities, the Acquired Intellectual Property or the Acquired Books and Records and that is not publicly available.

“Acquired Equipment” has the meaning set forth in Section 1.1(c).

“Acquired Intellectual Property” has the meaning set forth in Section 1.1(a).

“Acquired Inventory” has the meaning set forth in Section 1.1(d).

“Affiliate” means: (a) with respect to Purchaser, any other person or entity directly or indirectly controlling, controlled by or under common control with Purchaser; and (b) with respect to Seller, The Lubrizol Corporation or any other person or entity directly or indirectly controlled by The Lubrizol Corporation or Seller. For purposes of this this definition, “control” (including, with correlative meaning, the term “controlled by”), as used with respect to any person or entity, means the direct or indirect ownership of more than fifty percent (50%) of the voting capital, or more than fifty percent (50%) of the voting power at general meetings, or the power to appoint and dismiss a majority of the board of directors or similar governing body, or otherwise to direct the activities, of such person or entity.

“Agreement” has the meaning set forth in the preamble of this Asset Purchase Agreement.

“Ancillary Agreements” has the meaning set forth in Section 2.2(b)(ii).

“Approvals” means permits, authorizations and approvals issued or granted by a Governmental Body.

“Assignment and Assumption Agreement” has the meaning set forth in Section 2.2(a)(iii).

“Assumed Liabilities” has the meaning set forth in Section 1.4(c).

“Bill of Sale” has the meaning set forth in Section 2.2(a)(ii).

“CERCLA” means the Comprehensive Environmental Response, Compensation, and Liability Act.

“Change of Control” means, with respect to Purchaser, the occurrence of any of the following: (i) a merger, consolidation, reorganization or similar transaction involving Purchaser and a Third-Party after the completion of which the stockholders of Purchaser immediately prior to the completion of such merger, consolidation, reorganization or similar transaction beneficially own (within the meaning of Rule 13d-3 promulgated under the Securities Exchange Act of 1934, as amended), directly or indirectly, outstanding voting securities representing less than fifty percent (50%) of the combined voting power of either the surviving company in such merger, consolidation, reorganization or similar transaction or the person that controls the surviving company, (ii) the direct or indirect acquisition by any person or entity of more than fifty percent (50%) of the voting capital stock or securities of Purchaser, (iii) a sale, exchange or other transfer of all or substantially all of the assets, properties or rights of Purchaser or relating to the Purchaser’s business of developing, processing, manufacturing, packaging, distributing or selling breast implants, or other businesses, in a single or series of transactions; or (iv) the present members of Purchaser’s board of directors (or individuals selected by a majority of the present members of Purchaser’s board of directors) cease for any reason to constitute at least a majority of Purchaser’s board of directors. For purposes of this definition, “voting power” means the right to exercise voting power with respect to the election of directors or similar managing authority of Purchaser (whether through direct or indirect beneficial ownership of shares or securities of Purchaser or otherwise).

“Closing” has the meaning set forth in Section 2.1.

“Closing Date” has the meaning set forth in Section 2.1.

“Closing Day Purchase Price Payment” has the meaning set forth in Section 1.6(a)(i).

“Contesting Party” has the meaning set forth in Section 5.7(a).

“Cooperation Event” has the meaning set forth in Section 5.7(a).

“Cooperation Period” has the meaning set forth in Section 5.7(a).

“Dehumidifier Unit” has the meaning set forth in Section 5.1.

“Disclosure Schedules” has the meaning set forth in the preamble of Article III.

“Employment Offer” has the meaning set forth in Section 5.2(a).

“Encumbrance” means any lien, pledge, hypothecation, mortgage, security interest or similar type of encumbrance.

“End of Suspension Notice” has the meaning set forth in Section 5.13(b)(ii).

“Effective Date” has the meaning set forth in the preamble of this Agreement.

“Environmental Law” means any Federal, foreign, state and local law or legal requirement, including regulations, orders, permits, licenses, approvals, ordinances, directives and the common law, pertaining to pollution, the environment, the protection of the environment, natural resources or human health and safety, including the Clean Air Act, the Clean Water Act, the Resource Conservation and Recovery Act, the Comprehensive Environmental Response, Compensation, and Liability Act, the Occupational Safety and Health Act, the Toxic Substances Control Act, the Hazardous Materials Transportation Act, the Safe Drinking Water Act, the Federal Insecticide, Fungicide, and Rodenticide Act, the Emergency Planning and Community Right-to-Know Act, the Atomic Energy Act, the Radiation Control for Health and Safety Act and any similar Federal, foreign, state or local Law.

“Environmental Permit” means any permit required by or issued by a Governmental Body pursuant to any applicable Environmental Law.

“Exchange Act” has the meaning set forth in Section 4.6(a).

“First Tranche Shares” has the meaning set forth in Section 1.6(b).

“First Tranche Trigger Event” has the meaning set forth in Section 1.6(b).

“Governmental Body” means any multi-national, supra-national, national, federal, state, local, municipal, domestic or foreign government authority, including any department, commission, bureau or agency thereof.

“Hazardous Materials” means (i) any “hazardous substance,” as defined by CERCLA, (ii) any “hazardous waste,” as defined by the Resource Conservation and Recovery Act, and (iii) any pollutant, contaminant, waste or hazardous, dangerous or toxic chemical, material or substance or words of similar meaning and regulatory effect under Environmental Law (including asbestos, radiation and radioactive materials, polychlorinated biphenyls, petroleum and petroleum products and byproducts, lead, pesticides, natural gas, and nuclear fuel) that is hazardous, toxic, infectious, explosive, radioactive, carcinogenic, ignitable, corrosive, reactive, or otherwise deleterious to living things or the environment.

“Implant Activities” means (i) engineering, prototyping, assembling, measuring, processing and manufacturing the Implants, including dipping, sheeting, shaping, layering, filling, sterilizing, curing, and texturing the Implants, (ii) quality control testing the Implants, (iii) labeling, packaging and storing the Implants, and (iv) distributing and selling the Implants.

“Implants” means the silicone gel-filled breast implants that were engineered, prototyped, assembled, processed or manufactured by Seller for, and sold to, Purchaser on or prior to the Closing pursuant to the Services Agreement or the Manufacturing Agreement.

“Insolvent” means with respect to a specified entity, that the sum of such entity’s debts and other actual and probable liabilities and obligations exceed the present fair saleable value of such entity’s assets.

“Intellectual Property” means all patents, patent applications, certificates of invention, invention disclosures, ideas, know-how, trade secrets, concepts, discoveries, inventions (whether or not patentable), procedures, protocols, technology, methods, processes, techniques, instructions, specifications, plans, designs, drawings, diagrams, models, documents, software, computer files, data, formulations, compositions, works of authorship, copyrights, copyrightable works (including all applications and registrations for each of the foregoing), and all other copyrights corresponding thereto throughout the world, including economic rights in copyrights, other proprietary, confidential and non-public information and other intellectual property recognized in any country or jurisdiction (excluding domain names, trademarks, service marks and trade names).

“Lease” has the meaning set forth in Section 2.2(a)(iv).

“Leased Property” has the meaning set forth in Section 3.8.

“Legal Proceeding” means any claim, demand, action, suit, litigation, arbitration, proceeding (including any civil, criminal, administrative, investigative or appellate proceeding), hearing, inquiry, audit, examination or investigation commenced, brought, conducted or heard by or before, or otherwise involving, any court or other Governmental Body or any arbitrator or arbitration panel, whether domestic or foreign.

“License Agreement” has the meaning set forth in Section 1.2.

“Licensed Intellectual Property” has the meaning set forth in Section 1.2.

“Lockup Agreement” has the meaning set forth in Section 2.2(a)(viii).

“Manufacturing Agreement” means that certain Manufacturing Agreement between Purchaser and Seller effective as of March 10, 2017 pursuant to which Seller was engaged in certain Implant Activities prior to the Effective Date.

“MNPI” has the meaning set forth in Section 5.13(b)(i).

“Post-Closing Purchase Price Payments” has the meaning set forth in Section 1.6(a)(ii).

“Potential Employees” has the meaning set forth in Section 5.2(a).

“Pre-Closing Privileged Information” has the meaning set forth in Section 5.7(c).

“Principal Market” means the NASDAQ Global Select Market; provided, however, that in the event Purchaser Common Stock is not traded or listed on the NASDAQ Select Market, then the “Principal Market” means such other market or exchange on which Purchaser Common Stock is then principally listed or traded.

“Public Disclosure” has the meaning set forth in Section 5.5.

“Purchase Price” has the meaning set forth in Section 1.6(a).

“Purchaser” has the meaning set forth in the preamble of this Agreement.

“Purchaser’s Common Stock” has the meaning set forth in Section 1.6(b).

“Purchaser’s Knowledge” means, with respect to a fact, circumstance or occurrence, the knowledge of any individual referenced on Schedule A-I as of the Closing, and not the knowledge any such individuals could be expected to have after investigating such fact, circumstance or occurrence, which such individuals shall have no obligation to perform or undertake, or any deemed knowledge of such persons.

“Purchaser Losses” has the meaning set forth in Section 6.1(a).

“Purchaser Releasers” has the meaning set forth in Section 6.1(c).

“Purchaser SEC Documents” has the meaning set forth in Section 4.6(a).

“Retained Assets” has the meaning set forth in Section 1.3.

“Recapitalization Event” has the meaning set forth in Section 1.6(b).

“Registrable Securities” has the meaning set forth in Section 5.13(c).

“Resale Shelf” has the meaning set forth in Section 5.13(a).

“Retained Liabilities” has the meaning set forth in Section 1.5.

“R&W Insurance Policy” has the meaning set forth in Section 2.2(b)(iii).

“Rule 144” has the meaning set forth in Section 5.11.

“Second Tranche Shares” has the meaning set forth in Section 1.6(b).

“Second Tranche Trigger Event” has the meaning set forth in Section 1.6(b).

“Securities Act” has the meaning set forth in Section 3.16(b).

“Seller” has the meaning set forth in the preamble of this Agreement.

“Seller Losses” has the meaning set forth in Section 6.2(a).

“Seller Material Adverse Effect” means any event, change or effect that has had, individually or in the aggregate, a material adverse effect on the Acquired Assets or Seller’s conduct of the Implant Activities, in either case, taken as a whole; provided, however, that none of the following events, changes or effects shall be deemed in and of themselves to constitute a Seller Material Adverse Effect: (A) political, economic, market, regulatory or legal conditions or general changes or developments in the industry in which the Implant Activities are conducted, (B) any event, circumstance, change or effect arising directly or indirectly from or otherwise relating to any act of terrorism, war (whether declared or not), national or international calamity or any other similar event, or (C) changes in applicable law or any applicable accounting or other regulations.

“Seller Releasees” has the meaning set forth in Section 6.1(c).

“Seller Representatives” has the meaning set forth in Section 6.1(e).

“Seller’s Fraud” means actual common law fraud together with an actual and knowing (as opposed to imputed or constructive) and intentional misrepresentation of fact with respect to the representations and warranties of Seller set forth in Article III of this Agreement, provided that such misrepresentation shall be deemed to exist only if an individual set forth on Schedule A-II made such misrepresentation of fact with actual knowledge of such misrepresentation with the express intention that Purchaser rely thereon to its detriment (as opposed to reckless or negligent indifference to the truth). For the avoidance of doubt, there can be no Seller’s Fraud with respect to any representation or warranty that is not set forth in Article III.

“Seller’s Knowledge” means, with respect to a fact, circumstance or occurrence, only the actual knowledge of any individual referenced on Schedule A-II as of the Closing, and not the knowledge any such individuals could be expected to have after investigating such fact, circumstance or occurrence, which such individuals shall have no obligation to perform or undertake, or any deemed knowledge of such persons.

“Services Agreement” means that certain Services Agreement between Purchaser and Seller effective as of June 4, 2015 (as amended) pursuant to which Seller provided certain services to Purchaser relating to the process for manufacturing certain breast implant products.

“Shares” has the meaning set forth in Section 1.6(b).

“Supply Agreement” has the meaning set forth in Section 2.2(a)(vii).

“Suspension Event” has the meaning set forth in Section 5.13(b)(ii).

“Suspension Notice” has the meaning set forth in Section 5.13(b)(ii).

“Systems” has the meaning set forth in Section 3.5.

“Tax” or “Taxes” means, whether disputed or not, any and all federal, state, county, local, foreign or other similar governmental charges, duties, impositions and liabilities including income, foreign withholding, gross receipts, ad valorem, franchise, profits, sales or use, transfer, registration, escheat, unclaimed property, excise, utility, environmental, communications, real or personal property, capital stock, license, payroll, wage or other withholding, employment, social security, severance, stamp, occupation, alternative or add-on minimum, estimated and other Taxes of any kind whatsoever (including deficiencies, penalties, additions to tax, and interest attributable thereto).

“Tax Returns” means any returns, declarations, reports, claims for refund, elections, information returns or other documents (including any related or supporting schedules, statements or information) filed or required to be filed, or which are required to be collected or retained by law, in each case in connection with the determination, assessment or collection of any Taxes or the administration of any laws or administrative requirements relating to any Taxes, and including any amendment thereof.

“Termination and Release Agreement” has the meaning set forth in Section 2.2(a)(vi).

“Third-Party” means a person or entity that is not a party to this Agreement.

“Third-Party Claim” means any claim against a person or entity entitled to indemnification pursuant to Article VI of this Agreement by a Third-Party.

“Tissue Expander Agreement” means the Manufacturing, Supply and Quality Agreement effective November 1, 2011 between Purchaser and Seller as amended and restated by that certain Amended and Restated Manufacturing Agreement between Purchaser and Seller effective as of November 7, 2019.

“Transfer Taxes” has the meaning set forth in Section 5.4.

“Transferred Employee” has the meaning set forth in Section 5.2(a).

“Transition Services Agreement” has the meaning set forth in Section 2.2(a)(v).

*Certain identified information has been excluded from the exhibit because it is both (i) not material and (ii) would be competitively harmful if publicly disclosed, and has been marked with a “[***]” where the information has been omitted from the filed version of the exhibit..*

9900 South 57th Street

Franklin, Wisconsin

LANDLORD

VESTA INTERMEDIATE FUNDING, INC.

TENANT

SIENTRA, INC.

LEASE

ARTICLE I

RECITALS AND DEFINITIONS

Section 1.1 - Recitals.

This Lease (this "Lease") is entered into as of November 7, 2019 (the "Commencement Date") by and between VESTA INTERMEDIATE FUNDING, INC., a Delaware corporation (the "Landlord") and SIENTRA, INC., a Delaware corporation (the "Tenant").

In consideration of the mutual covenants herein set forth, and for other good and valuable consideration, the receipt, adequacy and legal sufficiency of which is hereby acknowledged, the Landlord and the Tenant do hereby agree to the terms and conditions set forth in this Lease.

Section 1.2 - Definitions.

Capitalized terms used in this Lease have the meanings set forth in this Section 1.2, **Exhibit A** or elsewhere in this Lease.

"Additional Rent" means all charges payable by the Tenant pursuant to this Lease other than Annual Fixed Rent, including without implied limitation (i) the Tenant's Tax Expense Allocable to the Premises (as defined in Section 3.2), (ii) the Tenant's Operating Expenses Allocable to the Premises (as defined in Section 3.3), (iii) amounts payable for the Landlord Services, and (iv) Tenant's obligations for payments pursuant to the Work Letter.

"Affiliate" means with respect to any specified person or entity, any other person or entity directly or indirectly controlling, controlled by or under common control with such specified person or entity.

"Asset Purchase Agreement" means that certain Asset Purchase Agreement dated on or about the date hereof, by and between Landlord (as Seller) and Tenant (as Purchaser).

"Intentionally Deleted"

"Annual Fixed Rent" - See Section 3.1.

"Building" means the building located at 9900 South 57th Street, Franklin, Wisconsin, in which the Premises is located.

"Commencement Date" – November 7, 2019.

“Expansion Premises” - See Exhibit A.

“Force Majeure” means any fire, flood, earthquake or other natural disaster, explosion, war, terrorism, embargo, riot, insurrection or other civil unrest, strike or other labor disturbances, trouble or shortages, failure of or accidents involving a party’s facilities, machinery or equipment, accidents, shortage of or inability to obtain raw materials, supplies, machinery, equipment, fuel, power or transportation, compliance with any law order, regulations, direction or request made by any governmental authority, or any other similar event beyond a party’s reasonable control.

“Initial Premises” - See Exhibit A.

“Initial Term” - See Exhibit A.

“Land” means the parcel of land situated in Franklin, Wisconsin, on which the Building is located.

“Landlord” - See Section 1.1.

“Landlord’s Original Address” - See Exhibit A.

“Lease” - See Section 1.1.

“Lease Year” means each period of one year during the Term commencing on the Commencement Date or on any anniversary thereof.

“Permitted Uses” - See Exhibit A.

“Premises” - See Exhibit A and Section 2.1.

“Property” means the Land and the Building.

“Sientra Common Areas” means those portions of the Property which are not part of the Premises and to which the Tenant has appurtenant rights pursuant to Section 2.2.

“Tenant” - See Section 1.1.

“Tenant’s Original Address” - See Exhibit A.

“Term” means the Initial Term together with any Extension Term (as defined in Section 2.6).

“Work Letter” means the terms attached hereto as **Exhibit E**, relating to the Build Out (as defined therein).

Section 1.3 - Exhibits.

The Exhibits to this Lease, which are listed hereinbelow, are incorporated herein by this reference and are to be treated as a part of this Lease for all purposes. Undertakings contained in such Exhibits, including any Exhibits not attached but separately delivered to Tenant, are agreements on the part of Landlord and Tenant, as the case may be, to perform the obligations stipulated therein.

EXHIBIT A	Basic Lease Terms
EXHIBIT B	Depiction of Initial Premises, Secure Access Points, Sientra Common Areas
EXHIBIT C	Depiction of Expansion Premises
EXHIBIT D	Depiction of Premises after Build Out
EXHIBIT E	Buildout
EXHIBIT F	Rules and Regulations
EXHIBIT G	Landlord Services

ARTICLE II

PREMISES AND TERM

Section 2.1 - Premises.

The Landlord hereby leases to the Tenant, and the Tenant hereby leases from the Landlord, for the Term, the Premises. As of the Commencement Date, the Premises shall consist of only the Initial Premises. In order to designate certain boundaries of the Initial Premises which currently may not be separately demised by walls, on or before the Commencement Date and/or within a reasonable period of time after the Commencement Date, Landlord and Tenant may reasonably agree to install signage, curtains or similar temporary separation to identify the boundaries of the Initial Premises, all as shall be reasonably agreed to by the parties, including the allocation and/or sharing of any costs related thereto. Within a reasonable period of time after the Commencement Date, Landlord, at Tenant’s sole cost and expense ([[***]]), shall install or cause to be installed secure access points (a) from outside the Building at Tenant’s entrance to the Initial Premises and (b) within the Building to secure access between the Premises and the remainder of the Building, in accordance with the budget and design plans reasonably approved by Landlord and Tenant, in the locations set forth on **Exhibit B-2**, attached hereto.

Effective upon Substantial Completion (as defined in the Work Letter) of the Expansion Premises, the Premises shall be deemed to consist of the Initial Premises and the Expansion Premises, as depicted on **Exhibit D**, attached hereto and incorporated by reference herein. Upon Substantial Completion of the Expansion Premises, the parties shall execute an amendment to this Lease in order to memorialize, among other things, the addition of the Expansion Premises and the updated percentages for calculating Tenant's Tax Expense Allocable to the Premises and Tenant's Operating Expenses Allocable to the Premises. In addition, effective upon the Substantial Completion of the Expansion Premises, the Sientra Common Areas shall no longer include (i) any restrooms located outside of the Premises, (ii) any locker rooms located outside of the Premises, (iii) any temporary or other office space located outside of the Premises, (iv) any vending machines or cafeteria areas located outside of the Premises, (v) any areas shown in blue on **Exhibit B-3** attached hereto and incorporated by reference herein, and (vi) any of the restricted access areas shown in orange on **Exhibit B-3** attached hereto and incorporate by reference herein.

[[***]]

[***]

Landlord shall have no obligation to perform any work or make any installations or improvements in order to prepare the Premises for Tenant's occupancy, except as may be set expressly forth in this Lease, including without limitation, the Work Letter. The taking of possession of the Initial Premises and the Expansion Premises by the Tenant shall conclusively establish that the same and the Property were at such time in satisfactory condition, order and repair, except as otherwise provided in the Work Letter; provided that this sentence shall not relieve Landlord of any of its maintenance or repair obligations under this Lease.

Section 2.2 – Sientra Common Areas.

The Tenant shall have, as appurtenant to the Premises, the nonexclusive right to use in common with others, subject to all reasonable rules and regulations (which shall be non-discriminatory with respect to any other tenants of the Property, but not with respect to Landlord) made by the Landlord of which the Tenant is given notice; provided that, Tenant's prior written consent, which shall not be unreasonably withheld, conditioned or delayed, shall be required for any such rules and regulations that materially increase Tenant's obligations under the Lease or that are reasonably likely to have a material adverse effect on Tenant's business or operations at the Premises): (i) the areas shown in blue on **Exhibit B-3**, attached hereto and incorporated by reference herein, (ii) only with respect to Tenant's employee's or agents needing access in connection with the performance of their responsibilities, the restricted access areas shown in orange on **Exhibit B-3**, attached hereto and incorporated by reference herein and (iii) the parking areas described in Section 2.4 of this Lease. For clarification purposes, the Sientra Common Areas shall not include any areas shown in red on **Exhibits B-3** or **Exhibit D**, attached hereto and incorporated by reference herein. The current Rules and Regulation are attached on **Exhibit F**. If

there are any conflicts between the provisions of such rules and regulations and any provisions of this Lease, the provisions of this Lease shall govern. For clarification purposes, neither Tenant nor any of its employees, agents, visitors or invitees may access, use or occupy any other portions of the Property other than the Premises and the Sientra Common Areas; provided, however, that upon reasonable prior notice to Landlord and upon obtaining Landlord's prior written approval (such approval not to be unreasonably withheld, conditioned or delayed), Tenant shall be granted access to other portions of the Property to the extent reasonably required in order for Tenant's use and enjoyment of the Premises or to perform Tenant's obligations under this Lease, which access shall remain subject to all of the other terms and conditions of this Lease, including, without limitation, Sections 4.3, 5.2 and **Exhibit F** of this Lease.

Section 2.3 - Landlord's Reservations.

The Landlord reserves the right from time to time, without unreasonable interference with (i) the Tenant's use or enjoyment of the Premises, or (ii) the Tenant's business, manufacturing or other operations at the Premises: (A) to install, use, maintain, repair, replace and relocate for service to the Premises and/or other parts of the Building, pipes, ducts, conduits, wires and appurtenant fixtures and equipment, wherever located in the Premises or the Building, and (B) to alter or relocate any other common area or other parts of the Building or the Property; provided, that Landlord shall not make any change to the Premises or the access or parking for Tenant's Premises without Tenant's prior written consent (such consent not to be unreasonably withheld, conditioned or delayed).

Section 2.4 - Parking.

Tenant and its employees, agents, visitors and invitees shall have the non-exclusive right to park in the parking lot serving the Property (the "Parking Lot") and Tenant's prior written consent (not to be unreasonably withheld, conditioned or delayed) shall be required for any modification of the Parking Lot, or rights to use the Parking Lot, if such modification is reasonably likely to result in the Parking Lot having less than 140 parking spaces available for Tenant's use at any time. From time to time, Landlord and Tenant may reasonably agree upon any parking areas which shall be reserved for the exclusive use of Tenant, at which time (i) Tenant and its employees, agents, visitors and invitees shall only park in such exclusive areas and (ii) Landlord shall communicate to its employees that any such reserved parking areas are for Tenant's exclusive use (and Landlord shall not be in default of its obligations under this sentence of Section 2.4 so long as it uses commercially reasonable efforts to have its employees not park in such exclusive areas). Tenant agrees that it and all persons claiming by, through and under it, shall at all times abide by the reasonable parking rules and regulations promulgated by the Landlord, of which Tenant is given notice, with respect to the use of the parking areas provided by the Landlord pursuant to this Lease.

Section 2.5 - Intentionally Deleted.

Section 2.6 - Extension Option.

Provided there has been no Event of Default which is uncured and continuing on the part of the Tenant, Tenant shall have the right to extend the Initial Term hereof for one (1) period of four (4) years (the "Extension Term"). Such right to extend the Initial Term shall be exercised by the giving of written notice by Tenant to Landlord at least twelve (12) months prior to the expiration of the Initial Term. Upon the giving of such notice, this Lease and the Initial Term hereof shall be automatically extended for an additional term of four (4) years without the necessity for the execution of any additional documents except a document evidencing the Annual Fixed Rent for the Extension Term to be determined as set forth below. Time shall be of the essence with respect to the Tenant's giving notice to extend the Term. The Extension Term shall be upon all the terms, conditions and provisions of this Lease except that (i) the Annual Fixed Rent during the Extension Term shall be as calculated below and (ii) the terms of this Section 2.6 shall not apply during the Extension Term.

[***]

ARTICLE III

RENT AND OTHER PAYMENTS

Section 3.1 - Annual Fixed Rent.

From and after the Commencement Date, the Tenant shall pay Landlord, without notice or demand, monthly installments of one-twelfth (1/12th) of the Annual Fixed Rent in effect and applicable to the Premises, in advance, on the first day of each calendar month of the Term and of the corresponding fraction of said one-twelfth (1/12th) for any fraction of a calendar month at the Commencement Date or end of the Term. The Annual Fixed Rent during the Initial Term shall be as set forth in Exhibit A and the Annual Fixed Rent during the Extension Term shall be as set forth in Section 2.6 of this Agreement. Rent shall be paid in such manner and to such place as Landlord shall designate from time to time, and without any set-off, offset, abatement or deduction whatsoever. Tenant shall pay to Landlord the amount of any tax or excise on rent (except net income or estate taxes) which is assessed or imposed by any governmental authority upon Landlord or upon Tenant and which is so assessed, imposed or paid as a result of Landlord's ownership of the Premises or of this Lease or the rentals accruing under this Lease.

Section 3.2 - Real Estate Taxes.

From and after the Commencement Date, during the Term, the Tenant shall pay to the Landlord, as Additional Rent, the Tenant's Tax Expenses Allocable to the Premises (as such term is hereinafter defined) in accordance with this Section 3.2. The following terms shall have the meanings indicated or referred to below:

- (a) "Tax Year" means the calendar year in which the Commencement Date falls and each succeeding calendar year in which any portion of the Term falls.

-
- (b) "The Tenant's Tax Expense Allocable to the Premises" means that portion of the Landlord's Tax Expenses for a Tax Year which bears the same proportion thereto as the floor area of the Premises (from time to time) bears to the total floor area of the Building.
 - (c) "The Landlord's Tax Expenses" with respect to any Tax Year means the aggregate Real Estate Taxes (as defined below) on the Property with respect to that Tax Year, reduced by any abatement or other tax refunds or credits received with respect to that Tax Year, plus any reasonable fees paid to third party consultants used by Landlord in connection with the calculation, abatement or refunding of Real Estate Taxes.
 - (d) "Real Estate Taxes" means (i) all taxes and special assessments of every kind and nature assessed by any governmental authority on the Property; and (ii) reasonable expenses of any proceedings for abatement of such taxes or special assessments. Any special assessments to be included within the definition of "Real Estate Taxes" for any Tax Year shall be limited to the amount of the installment (plus any interest thereon) of such special assessment (which shall be payable over the longest period permitted by law) required to be paid during such Tax Year. There shall be excluded from Real Estate Taxes all income, estate, succession, inheritance, excess profit, franchise and transfer taxes; provided, however, that if at any time during the Term the present system of ad valorem taxation of real property shall be changed so that in lieu of the whole or any part of the ad valorem tax on real property, there shall be assessed on the Landlord a capital levy or other tax on the gross rents received with respect to the Property, or a federal, state, county, municipal or other local income, franchise, excise or similar tax, assessment, levy or charge (distinct from any now in effect) based, in whole or in part, upon any such gross rents, then any and all of such taxes, assessments, levies or charges, to the extent so based, shall be deemed to be included within the term "Real Estate Taxes."

Payments by the Tenant on account of the Tenant's Tax Expenses Allocable to the Premises shall be made monthly at the time and in the fashion herein provided for the payment of Annual Fixed Rent and shall be in the amount of one-twelfth (1/12th) of the Tenant's Tax Expenses Allocable to the Premises for the current Tax Year as reasonably estimated by the Landlord.

Within a reasonable period of time after the end of each Tax Year (but not greater than 180 days), the Landlord shall render the Tenant a statement in reasonable detail showing for the preceding Tax Year or fraction thereof, as the case may be, Real Estate Taxes for such Tax Year, and any abatements or refunds of such Real Estate Taxes. Expenses incurred in obtaining any tax abatement or refund may be charged against such tax abatement or refund before the adjustments are made for the Tax Year. If at the time such statement is rendered it is determined with respect to any Tax Year, that the Tenant has paid (i) less than the Tenant's Tax Expenses Allocable to the Premises or (ii) more than the Tenant's Tax Expenses Allocable to the Premises, then, in the case of clause "(i)" the Tenant shall pay to the Landlord, as Additional Rent, within thirty (30) days of such statement the amount of such underpayment and, in the case of clause "(ii)" the Landlord shall credit the amount of such overpayment against the next monthly installments of the Tenant's Tax Expenses Allocable to the Premises next thereafter coming due (or refund such overpayment if the Term has expired or earlier terminated within thirty (30) days after such expiration or termination).

To the extent that Real Estate Taxes shall be payable to the taxing authority in installments with respect to periods other than a Tax Year, the statement to be furnished by the Landlord shall be rendered and payments made on account of such installments.

Section 3.3 - Operating Expenses.

From and after the Commencement Date, during the Term, the Tenant shall pay to the Landlord, as Additional Rent, the Tenant's Operating Expenses Allocable to the Premises, as hereinafter defined, in accordance with this Section 3.3. The following terms shall have the meanings indicated or referred to below:

- (a) [***];
 - i. [***].
- (b) [***].
- (c) [***]:
 - a. [***];
 - b. [***];
 - c. [***];
 - d. [***];
 - e. [***];
 - f. [***];
 - g. [***];
 - h. [***];
 - i. [***];
 - j. [***];

k. [***];

l. [***]; and/or

m. [***].

Payments by the Tenant for its share of the Operating Expenses for the Property shall be made monthly at the time and in the fashion herein provided for the payment of Annual Fixed Rent. The amount so to be paid to the Landlord shall be an amount from time to time reasonably estimated by the Landlord to be sufficient to aggregate a sum equal to the Tenant's share of the Operating Expenses for the Property for the applicable calendar year.

Within a reasonable period of time after the end of each calendar year (not to exceed 180 days) or fraction thereof at the end of the Term, the Landlord shall render the Tenant a statement in reasonable detail showing for the preceding calendar year or fraction thereof, as the case may be, the Operating Expenses for the Property and the Tenant's Operating Expenses Allocable to the Premises. Said statement to be rendered to the Tenant also shall show for the preceding calendar year of Landlord or fraction thereof, as the case may be, the amounts of Operating Expenses already paid by the Tenant. If at the time such statement is rendered it is determined with respect to any calendar year or fraction thereof, that the Tenant has paid (i) less than the Tenant's Operating Expenses Allocable to the Premises or (ii) more than the Tenant's Operating Expenses Allocable to the Premises, then, in the case of clause "(i)" the Tenant shall pay to the Landlord, as Additional Rent, within thirty (30) days of such statement the amounts of such underpayment and, in the case of clause "(ii)" the Landlord shall credit the amount of such overpayment against the next monthly installment of the Tenant's Operating Expenses Allocable to the Premises (or refund such overpayment if the Term has expired or earlier terminated within thirty (30) days after such expiration or termination). After delivery to Landlord of at least thirty (30) days' prior written notice, Tenant, at its sole cost and expense through any accountant designated by it (so long as the same executes a confidentiality agreement in favor of Landlord and in form and substance reasonably acceptable to Landlord), shall have the right to examine and/or audit the books and records evidencing Operating Expenses and Tax Expenses for the previous calendar year, during Landlord's reasonable business hours at a time reasonably agreed to by Landlord but not more frequently than once during any calendar year.

Section 3.4 - Other Utility Charges.

During the Term, the Tenant shall pay directly to the provider of the service all separately metered charges for service in the Premises, and shall pay to Landlord as Additional Rent, the Tenant's Operating Expenses Allocable to the Premises in accordance with and subject to the terms of Section 3.3 of the Lease, for any utility services which are not separately metered.

Section 3.5 - Landlord Services.

(a) Landlord shall provide or cause to be provided the services set forth on Exhibit G, attached hereto and incorporated by reference herein (the "Landlord Services"), in accordance with the terms thereof and of this Lease. [***].

(b) In consideration for the performance of the Landlord Services, the Tenant shall pay to the Landlord, as Additional Rent, (i) with respect to any Landlord Services which set forth a specific charge on **Exhibit G**, attached hereto and incorporated by reference, the amounts set forth therein with respect to the applicable Landlord Services and (ii) with respect to any Landlord Services which do not set forth a specific charge on **Exhibit G**, attached hereto and incorporated by reference, the Tenant's Operating Expenses Allocable to the Premises in accordance with and subject to the terms of Section 3.3 of the Lease (with the costs of such Landlord Services being deemed to be Operating Expenses for the Property to the extent any of the same were not already considered a part thereof) with respect to the applicable Landlord Services.

(c) [***].

Section 3.6 - No Offsets.

Annual Fixed Rent and Additional Rent shall be paid by the Tenant without offset, abatement or deduction except as specifically permitted herein.

Section 3.7 [***].

Section 3.8 Trash and Hazardous Material Storage and Disposal.

Landlord is (i) performing or causing to be performed certain non-hazardous trash removal services as part of the Landlord Services and (ii) temporarily performing or causing to be performed certain hazardous material storage and disposal services in accordance with and for the periods of time set forth in the Transition Services Agreement. Following the expiration or earlier termination of the applicable period of time for the performance of the foregoing services under the Transition Services Agreement, Tenant shall be required to perform or cause to be performed any such hazardous material storage and disposal services in accordance with all applicable laws (including, without limitation, obtaining any necessary generator IDs and other necessary governmental permits and approvals) and otherwise in accordance with the terms and provisions of this Lease. On a quarterly basis and upon Landlord's request, Tenant shall provide Landlord (and its contractor if applicable) with (i) certifications regarding Tenant's operations at the Premises, including, but not limited to all waste, wastewater and storm water generated from Tenant's operations, in accordance with the certifications required by the applicable regulatory requirements and (ii) any other information relating thereto reasonably requested by Landlord.

ARTICLE IV

ALTERATIONS

Section 4.1 - Consent Required for Tenant's Alterations.

The Tenant shall not make alterations or additions to the Premises without first obtaining Landlord's prior written approval, which shall not be unreasonably withheld, conditioned or delayed. As a condition precedent for any such approval with respect to certain alterations or improvements, Landlord may also reasonably request to review and/or approve any applicable plans and specifications, which approval shall not be unreasonably withheld, conditioned or delayed. Tenant shall be responsible for Landlord's actual, reasonable out-of-pocket costs for any third party architectural, engineering, environmental or other consulting or professional services required by Landlord in connection with Landlord's review and approval of Tenant's plans and specifications.

Section 4.2 - Ownership of Alterations.

Pursuant to the Asset Purchase Agreement, Tenant purchased certain "Acquired Assets" as defined in the Asset Purchase Agreement from Landlord (together with any alterations, improvements or modifications thereto performed after the Commencement Date, the "Acquired Assets"). All other (i) improvements and alterations to the Premises existing as of the Commencement Date (other than the Acquired Assets) and (ii) alterations and additions to the Premises made by Tenant pursuant to the terms of this Lease (other than the Acquired Assets), which in each case cannot be removed from the Premises at the expiration or earlier termination of the Lease without materially damaging the Premises shall be part of the Building and owned by the Landlord unless at the time of Landlord's approval of any such alterations or additions, Landlord shall have informed Tenant in writing of the alterations or additions which must be removed by Tenant upon the expiration or earlier termination of this Lease. All Acquired Assets, other equipment and furnishings not permanently attached to the Premises and any and all personal property of Tenant shall remain the property of the Tenant and shall be removed by the Tenant upon the expiration or earlier termination of this Lease in accordance with Section 11.9 of this Lease.

Section 4.3 - Construction Requirements for Alterations.

All construction work approved by or on behalf of Landlord and performed by or on behalf of the Tenant shall be done in a good and workmanlike manner employing only first-class materials and labor and in compliance with Landlord's reasonable rules and regulations and with all applicable laws and all lawful ordinances, regulations and orders of governmental authority and insurers of the Building. The Landlord or Landlord's authorized agent may (but without any

implied obligation to do so) inspect the work of the Tenant at reasonable times and shall give notice of observed defects. All of the Tenant's alterations and additions and installation of furnishings shall be coordinated with any work being performed by the Landlord and in such manner as to maintain harmonious labor relations and not to damage the Building or unreasonably interfere with Building construction or operation and, except for installation of furnishings, shall be performed by contractors or workmen first approved by the Landlord, which approval the Landlord agrees not to unreasonably withhold, condition or delay. The Tenant, before starting any work, shall receive and comply with Landlord's reasonable rules and regulations and shall cause Tenant's contractors to comply therewith, shall secure all licenses and permits necessary therefor, shall deliver to the Landlord a statement of the names of all its contractors and subcontractors and the estimated cost of all labor and material to be furnished by them; and cause each contractor to carry worker's compensation insurance in statutory amounts covering all the contractors' and subcontractors' employees and commercial general public liability insurance with such limits as the Landlord may require reasonably, but in no event less than [***] or in such other amounts as Landlord may reasonably require covering personal injury and death and property damage (all such insurance to be written by companies reasonably approved by the Landlord and insuring the Landlord and the Tenant as well as the contractors and to contain a requirement for at least thirty (30) days' notice to the Landlord prior to cancellation, nonrenewal or material change), and to deliver to the Landlord certificates of all such insurance. Landlord shall be named as an additional insured on any contractor's or subcontractor's commercial general liability insurance.

Section 4.4 - Payment for Tenant Alterations.

The Tenant agrees to pay promptly when due the entire cost of any work done on the Premises by or on behalf of the Tenant, its agents, employees or independent contractors, and not to cause or permit any liens for labor or materials performed or furnished in connection therewith to attach to the Premises or the Property and promptly to discharge any such liens which may so attach. If any such lien shall be filed against the Premises or the Property as a result of any work done on the Premises by or on behalf of Tenant, its agents, employees or independent contractors, and the Tenant shall fail to cause such lien to be discharged or bonded within thirty (30) days after the filing thereof, the Landlord may cause such lien to be discharged by payment, bond or otherwise without investigation as to the validity thereof or as to any offsets or defenses which the Tenant may have with respect to the amount claimed; provided, that if Tenant shall have bonded such lien (and maintained such bond in place during the entirety of any such proceedings), then Tenant may contest such lien by appropriate proceedings. The Tenant shall reimburse the Landlord, as Additional Rent, for any reasonable cost so incurred and shall indemnify and hold harmless the Landlord from and against any and all claims, costs, damages, liabilities and expenses (including reasonable attorneys' fees) which may be incurred or suffered by the Landlord by reason of any such lien or its discharge.

ARTICLE V

MAINTENANCE AND REPAIRS

Section 5.1 - Maintenance by Landlord.

Except as otherwise provided in Article VIII, the Landlord shall make such repairs to all structural elements of the Building, including without limitation, the roof, exterior and other load-bearing walls and floor and floor slabs as may be necessary to keep and maintain the same in good order, condition and repair, reasonable wear and tear excepted, and maintain and make, or cause to be maintained and made, such repairs to the Sientra Common Areas as may be necessary to keep them in good order, condition and repair, and all utility systems and mechanical systems and equipment serving the Building and not exclusively serving the Premises. The Landlord shall in no event be responsible for the cost of (i) any maintenance, repairs or replacements or (ii) for any condition in the Premises or the Building, in either case to the extent caused by an act or omission by Tenant, or any invitee or contractor of the Tenant, all of which shall be performed by Landlord at Tenant's expense as set forth in Section 5.2 below. Tenant, its employees, agents and contractors, shall cooperate in the ongoing conduct of any reasonable environmental management programs conducted by Landlord, and shall participate and comply with the reasonable requirements and recommendations of such programs to the extent Tenant is notified of same and such requirements and recommendations pertain to the operations or maintenance responsibilities of the Tenant under this Lease. Except as otherwise provided in this Lease, Landlord's reasonable costs in performing the obligations contained in this Section 5.1 shall be reimbursed by the Tenant to the extent provided in Section 3.3.

(b) During the term of this Lease, the Landlord shall use all commercially reasonable efforts to maintain in good standing the Air Pollution Control Permits. If applicable during the term of this Lease, the Landlord shall prepare and timely submit any permit renewal applications necessary to maintain the Air Pollution Control Permits, and the Tenant shall provide such documents and information reasonably necessary for Landlord to prepare such renewal applications in response to the written request by Landlord. The Landlord shall pay all out-of-pocket costs, fees and expenses related to the renewal of the Air Pollution Control Permits required in connection with this Lease.

Section 5.2 - Maintenance of Premises by Tenant.

The Tenant shall keep neat and clean and maintain in good order, condition and repair the Premises and every part thereof, including utility systems, mechanical equipment and other systems exclusively serving the Premises, reasonable wear and tear excepted, and shall surrender the Premises at the end of the Term in such condition, first removing all goods and effects of the Tenant and, to the extent specified by the Landlord by notice to the Tenant pursuant to Section 4.2, all alterations and additions made by the Tenant, and repairing any damage caused by such removal and restoring the Premises and leaving them clean and neat. [***]. The Tenant shall be responsible for the cost of Landlord's performance of any maintenance, repairs or replacements to

the Property which may be made necessary by any act or omission of Tenant, or any invitee or contractor of the Tenant. All of Tenant's data, networking, security and other systems and equipment, shall be maintained by Tenant. Tenant shall provide or cause to be provided any pest control or related services for the Premises in order to keep the same in a clean and sanitary condition.

Section 5.3 - Delays.

The Landlord shall not be liable to the Tenant for any compensation or reduction of rent by reason or inconvenience or annoyance or for loss of business arising from the necessity of the Landlord or its agents entering the Premises for any purposes authorized in this Lease, or for repairing the Premises as required or permitted herein or any portion of the Building. In case the Landlord is prevented or delayed from making any repairs, alterations or improvements, or furnishing any services or performing any other covenant or duty to be performed on the Landlord's part, by reason of any Force Majeure, the Landlord shall not be liable to the Tenant therefor, nor, except as expressly otherwise provided in this Lease, shall the Tenant be entitled to any abatement or reduction of rent by reason thereof, nor shall the same give rise to a claim in the Tenant's favor that such failure constitutes actual or constructive, total or partial, eviction from the Premises.

The Landlord reserves the right to stop any service or utility system when necessary by reason of accident or emergency, until necessary repairs have been completed; provided, however, that in each instance of stoppage, the Landlord shall exercise commercially reasonable efforts to eliminate the cause thereof. Except in case of emergency repairs, the Landlord will give the Tenant reasonable advance notice of any contemplated stoppage and will use diligent efforts to avoid unnecessary inconvenience to the Tenant by reason thereof. In no event shall the Landlord have any liability to the Tenant for the unavailability of heat, light or any utility or service to be provided by the Landlord to the extent that such unavailability is caused by Force Majeure, provided, however, that the Landlord is obligated to exercise commercially reasonable efforts to restore the services or utility systems' operation.

ARTICLE VI

TENANT COVENANTS

The Tenant covenants during the Term and for such further time as the Tenant occupies any part of the Premises:

Section 6.1 - Permitted Uses.

The Tenant shall occupy the Premises only for the Permitted Uses, and shall not injure or deface the Premises or the Property. The Tenant shall give written notice to the Landlord of any materials on OSHA's right to know list or which are subject to regulation by any other federal, state, municipal or other governmental authority and which the Tenant intends to have present at the Premises. The Tenant shall comply with all requirements of public authorities in connection with methods of storage, use and disposal thereof. The Tenant shall not permit in the Premises any nuisance, or the emission from the Premises of any objectionable noise, odor or vibration, nor use or devote the Premises or any part thereof for any purpose which is contrary to applicable law or ordinance or reasonably likely to invalidate premiums for any insurance on the Building or its contents or reasonably likely to render necessary any alteration or addition to the Building, nor commit or permit any waste in or with respect to the Premises, nor generate, store or dispose of any oil, toxic substances, hazardous wastes, or hazardous materials (each a, "Hazardous Material"), or permit the same in or on the Premises or any parking areas provided for under this Lease, unless first giving Landlord notice thereof (except for any Hazardous Material used by Landlord in the manufacturing of products for Tenant prior to the Commencement Date, so long as such are used in substantially the same manner as such use by Landlord). The Tenant shall comply with all applicable laws, rules and regulations in connection with the handling, storage, use and disposal of any such permitted Hazardous Material, except for any non-compliance that would not be reasonably expected to result in material liability. The Tenant shall not dump, flush or in any way introduce any Hazardous Materials into septic, sewage or other waste disposal systems serving the Premises or any parking areas provided for under this Lease, except as specifically permitted by government license or permit. The Tenant will indemnify the Landlord, its Affiliates, any third parties (including, without limitation, any governmental or quasi-governmental agencies), and their respective successors and assigns, against all claims, loss, cost, and expense, including reasonable attorneys' fees, incurred as a result of any contamination of the Building after the Commencement Date with Hazardous Materials by the Tenant or Tenant's contractors, licensees, invitees, agents, servants or employees. Subject to the Transition Services Agreement negotiated by the parties, with respect to any Permitted Use, Tenant shall provide to Landlord copies of all final regulatory filings, licenses and permits Tenant has been required to submit or obtain prior to handling any such Hazardous Materials, together with evidence satisfactory to Landlord that such licenses and/or permits are valid and in full force and effect Tenant shall have received all such licenses and/or permits prior to commencement of its operations in the Premises. From time to time hereafter, upon twenty (20) days advance notice from Landlord, Tenant will provide Landlord with such updated certified copies of licenses and/or permits as the Landlord may reasonably request. Upon request by the Landlord, Tenant shall promptly remove any material or substances which are not in compliance with this Section 6.1.

Section 6.2 - Laws and Regulations.

The Landlord and Tenant shall comply with all federal, state and local laws, regulations, ordinances, executive orders, federal guidelines, and similar requirements in effect from time to time, relating to its use, occupancy and operations at the Property and Premises; provided, that Tenant shall not be obligated to make any structural alterations or capital improvements to the Premises or Property unless and to the extent required because of Tenant's specific use of the Premises or Tenant's alterations to the Premises.

Section 6.3 - Rules and Regulations; Signs.

The Tenant shall not obstruct in any manner any portion of the Property not hereby leased; shall not permit the placing of any signs, curtains, blinds, shades, awnings, aerials or flagpoles, or the like, visible from outside the Premises (except as otherwise expressly set forth in this Lease); and shall comply with all reasonable rules and regulations now or hereafter made by the Landlord, of which the Tenant has been given notice, for the care and use of the Property.

Section 6.4 - Safety Compliance.

The Tenant shall keep the Premises equipped with all safety equipment required by law or ordinance or any other regulations of any public authority and to procure all licenses and permits so required because of such use and, if requested by the Landlord, do any work so required because of such use, it being understood that the foregoing provisions shall not be construed to broaden in any way the Tenant's Permitted Uses. Tenant shall conduct such periodic tests, evaluations or certifications of safety equipment as are required or recommended in accordance with generally accepted industry standards to ensure that such safety equipment remain in good working order, and shall provide to Landlord copies of such reports, evaluations and certifications as they are periodically obtained by Tenant.

Section 6.5 - Landlord's Entry.

The Tenant shall permit the Landlord and its agents, after reasonable prior notice (with Landlord agreeing to use commercially reasonable efforts to provide at least twenty-four (24) hours prior notice) except in the case of emergencies, to enter the Premises at all reasonable hours for the purpose of inspecting or of making repairs or performing any of Landlord's obligations as required or permitted to be made herein to the same.

Section 6.6 - Floor Load.

The Tenant shall not place a load upon any floor in the Premises exceeding the floor load per square foot of area which such floor was designed to carry and which is allowed by law. Further, Tenant shall not move any safe, vault or other heavy equipment in, about or out of the Premises except in such manner, in such areas and at such time as the Landlord shall in each instance reasonably authorize. The Tenant's machines and mechanical equipment shall be placed and maintained by the Tenant at the Tenant's expense in settings sufficient to absorb or prevent vibration or noise that may be transmitted to the Building structure or to any other space in the Building.

Section 6.7 - Personal Property Tax.

The Tenant shall pay promptly when due all taxes which may be imposed upon personal property (including, without limitation, fixtures and equipment) in the Premises to whomever assessed.

Section 6.8 - Assignment and Subleases.

The Tenant shall not (i) assign its rights or delegate its duties under this Lease (whether by operation of law, transfers of interests in Tenant or otherwise), in whole or in part, (ii) mortgage, pledge or encumber its interest in this Lease, in whole or in part, (iii) sublet, or permit the subletting of, the Premises or any part thereof, or (iv) permit the Premises or any part thereof to be occupied or used by any person or entity other than Tenant, without, in each instance of (i)-(iv), having first received the prior written consent of the Landlord, which shall not be unreasonably withheld, conditioned or delayed. Any assignment, sublease or other act described above in this Section 6.8 (each a "Transfer") made without such consent shall be void. Notwithstanding anything to the contrary in this Lease, Tenant shall be permitted to Transfer all of its interest in this Lease to an Affiliate (defined below) or a Purchaser (defined below, and together with an Affiliate collectively an "assignee") without Landlord's consent, provided that (i) Tenant provides Landlord with written notice of such Transfer within three (3) business days thereof along with an assignment and assumption agreement in form and substance reasonably acceptable to Landlord, and (ii) the Transfer shall not relieve Tenant of its obligations hereunder. The term "Affiliate" as used herein means any entity controlled by, in control of or under common control with Tenant. The term "Purchaser" as used in this Section means any person or entity acquiring all or substantially all of the assets of Tenant (whether acquired directly or by acquiring all of the ownership interest of Tenant).

ARTICLE VII

INDEMNITY AND INSURANCE

Section 7.1 - Indemnity.

(a) [***].

(b) [***].

[***].

Section 7.2 - Liability Insurance.

The Tenant shall maintain in full force from the date upon which the Tenant first enters the Premises for any reason, throughout the Term, and thereafter, so long as the Tenant is using or occupying any part of the Premises, a policy of commercial general liability insurance under which the Landlord shall be named as additional insured on terms reasonably acceptable to Landlord, under which the insurer waives all right of subrogation against Landlord and provides a contractual liability endorsement insuring against all claims, demands, causes of actions, expenses, damages, liabilities and losses arising out of or based upon any and all claims, accidents, injuries and damages described in Section 7.1, in the broadest form of such coverage from time to time available. Each such policy shall be noncancellable and nonamendable (to the extent that any proposed amendment reduces the limits or the scope of the insurance required in this Lease) with respect to the Landlord without thirty (30) days' prior notice to the Landlord and a certificate of insurance shall be delivered to the Landlord. The minimum limits of liability of such insurance shall be [***] ([***)] per occurrence and per policy period for combined bodily injury (or death) and damage to property.

Section 7.3 - Alterations, Improvements and Betterments; Personal Property at Risk.

The Tenant shall maintain in full force at all times throughout the Term, policy(s) of all risk property damage insurance (with ISO Legal Liability Coverage Form (CP 00 44) or equivalent), naming Landlord and the Tenant as insureds as their interests may appear, covering the Premises and all property under the care, custody or control of Tenant, including, without limitation, all of Tenant's leasehold improvements and alterations to the Premises to the extent of their full replacement costs as updated from time to time during the Term.

The Tenant agrees that all of the improvements, alterations, furnishings, fixtures, equipment, effects and property of every kind, nature and description of the Tenant and of all persons claiming by, through or under the Tenant which, during the continuance of this Lease or any occupancy of the Premises by the Tenant or anyone claiming under the Tenant which, during the continuance of this Lease or any occupancy of the Premises by the Tenant or anyone claiming under the Tenant, may be on the Premises or elsewhere in the Building or on the Land or parking areas provided hereby, shall be at the sole risk and hazard of the Tenant, and if the whole or any part thereof shall be destroyed or damaged by fire, water or otherwise, or by the leakage or bursting of water pipes, steam pipes, or other pipes, by theft or from any other cause, no part of said loss or damage is to be charged to or borne by the Landlord. Each party shall cause its insurer to waive the insurer's resulting rights of subrogation with respect to property loss.

Section 7.4 Worker's Comp. Insurance.

The Tenant shall maintain in full force at all times throughout the Term, Workers' Compensation Insurance in compliance with all requirements of the laws of the State of Wisconsin, and Employer's Liability Insurance providing coverage for death, bodily injury, sickness and disease, with limits of not less than [***] per occurrence.

Section 7.5 Other Requirements.

All insurance required of Tenant pursuant to this Lease shall be issued by insurance companies having an A.M. Best financial strength rating of A-/VIII or better. No policy of insurance required of Tenant by this Lease shall contain a deductible or self-insured retention in excess of [***]. All deductibles and self-insured retentions carried by Tenant under its insurance program are the sole responsibility of Tenant and shall not be borne in any way by Landlord.

Section 7.6 - Landlord's Insurance.

The Landlord may carry, or cause to be carried, such property and liability insurance upon and with respect to the Property as may from time to time be deemed prudent by the Landlord, including, without limitation, any self-insurance, self-insured retentions or deductibles relating thereto as may be deemed prudent by the Landlord; [***].

Section 7.7 - Waiver of Subrogation.

Any insurance carried by Tenant or Landlord, without further request by the other party, shall include a clause or endorsement denying to the insurer rights of subrogation against the other party to the extent rights have been waived by the insured prior to occurrence of any claim, damage, injury or loss. Notwithstanding the foregoing, (i) none of the foregoing shall otherwise affect any party's obligations or liabilities under this Lease, including, without limitation, any obligations or liabilities under Sections 5 or 7.1 of this Lease and (ii) neither Tenant nor Landlord waives any claims or rights of recovery otherwise expressly available to such party under this Lease (subject to the terms relating thereto) against the other party for injury or loss, including, without limitation, injury or loss caused by the negligence of such other party (but still subject to any restrictions, waivers or other limitations relating thereto expressly set forth in this Lease).

ARTICLE VIII

CASUALTY AND EMINENT DOMAIN

Section 8.1 - Casualties.

(a) If (i) either the Premises or the Building shall be damaged to the extent of more than twenty-five percent (25%) of the cost of replacement thereof, respectively, or (ii) the Premises shall be damaged in whole or in part during the last year of the Lease term or of any renewal term hereof; then in any such event Landlord may terminate this Lease by notice given within ninety (90) days after such event and upon the date specified in such notice, which shall not be less than thirty (30) days nor more than sixty (60) days after the giving of said notice, this Lease shall terminate and come to an end, and Tenant shall vacate and surrender the Premises to Landlord.

(b) If this Lease shall not be terminated as provided in Subsection (a) above, except for all improvements, alterations, furnishings, fixtures, equipment, effects and property of every kind, nature and description of the Tenant and of all persons claiming by, through or under the Tenant, all of which shall be repaired and restored by Tenant at its sole cost and expense, Landlord, at Landlord's expense, shall, diligently proceed with the repair or restoration of the Premises to place the damaged Premises in substantially the same condition they were in immediately preceding the damage or destruction, subject, however, to applicable laws and codes then in existence; provided that, if Tenant has reasonable grounds to believe that such repairs by Landlord shall not be completed within one hundred eighty (180) days after the occurrence of such damage, then Tenant shall have the right to terminate this Lease upon notice to Landlord given within ninety (90) days after such casualty event, in which event the Lease shall terminate upon the date specified in such notice, which shall not be less than thirty (30) days nor more than sixty (60) days after the giving of said notice, and Tenant shall vacate and surrender the Premises to Landlord otherwise in the condition required by this Lease (subject to any such casualty).

Section 8.2 - Eminent Domain.

Except as hereinafter provided, if the Premises, or such portion thereof as to render the balance (if reconstructed to the maximum extent practicable in the circumstances) unsuitable for the Tenant's purposes, shall be taken by condemnation or right of eminent domain, the Landlord or the Tenant shall have the right to terminate this Lease by notice to the other of its desire to do so, provided that such notice is given not later than thirty (30) days after the effective date of such taking. If so much of the Building shall be so taken that the Landlord reasonably determines that it would be appropriate to raze or substantially alter the Building, the Landlord shall have the right to terminate this Lease by giving notice to the Tenant of the Landlord's desire to do so not later than thirty (30) days after the effective date of such taking.

Should any part of the Premises be so taken or condemned during the Term, and should this Lease be not terminated in accordance with the foregoing provisions, the Landlord agrees to use reasonable efforts to place the remainder of the Premises into proper condition for use and occupation as nearly like the condition of the Premises prior to such taking as shall be practicable, subject, however, to applicable laws and codes then in existence.

Section 8.3 - Rent After Casualty or Taking.

If the Premises shall be damaged by fire or other casualty, the Annual Fixed Rent and Additional Rent shall be justly and equitably abated and reduced according to the nature and extent of the loss of use thereof suffered by the Tenant. In the event of a taking which reduces the area of the Premises, a just proportion of the Annual Fixed Rent shall be abated for the period of such taking.

Section 8.4 - Taking Award.

Subject to the following sentence, Landlord shall have and hereby reserves and accepts all rights to recover for damages to the Building and the Land, and the leasehold interest hereby created, and to compensation accrued or hereafter to accrue by reason of such taking, damage or destruction, as aforesaid the Tenant hereby grants and assigns to the Landlord, all rights to such damages or compensation; provided that Landlord shall not seek recovery for any losses or other items referenced in the following sentence as included in the definition of Tenant's Taking Award. Notwithstanding the foregoing, Tenant shall be entitled to any separate award for Tenant's relocation expenses, loss of business good will and/or loss of or damage to Tenant's trade fixtures, removable personal property and improvements (without regard to whether or not this Lease is terminated as the result of such taking), and for that purpose all alterations or improvements to the Premises paid for by Tenant shall be considered the property of Tenant and Tenant shall be entitled to any and all compensation which is payable therefore (such compensation "Tenant's Taking Award"), provided that such action by Tenant shall not affect the amount of compensation otherwise recoverable by the Landlord from the taking authority pursuant to the preceding sentence.

ARTICLE IX

DEFAULT

Section 9.1 - Tenant's Default.

Each of the following shall constitute an "Event of Default":

- (a) Failure on the part of the Tenant to pay in full the Annual Fixed Rent, Additional Rent or other charges for which provision is made herein on or before the date on which the same become due and payable, if such failure continues for five (5) days after written notice from the Landlord that the same are past due; provided, however, an Event of Default shall occur hereunder without any obligation of Landlord to give any notice if Landlord has given Tenant written notice under this Section 9.1(a) on more than two (2) occasions during the twelve (12) consecutive month period preceding such failure to pay by Tenant.
- (b) Failure on the part of the Tenant (i) to perform or observe any other term or condition contained in this Lease if the Tenant shall not cure such failure within thirty (30) days after notice from the Landlord to the Tenant thereof, provided that in the case of breaches of obligations under this Lease which cannot be cured within thirty (30) days through the exercise of due diligence, so long as the Tenant commences such cure within thirty (30) days, and the Tenant diligently pursues such cure, such breach shall not be deemed to create an Event of Default, (ii) to pay the Post-Closing Purchase Price Payments as set forth in Section 1.6(a)(ii) of the Asset Purchase Agreement or (iii) to issue to Landlord the Shares (as defined in the Asset Purchase Agreement) in accordance with and subject to the terms of Section 1.6(b) of the Asset Purchase Agreement.

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- (c) The taking of the estate hereby created on execution or by other process of law; or a judicial declaration that the Tenant is bankrupt or insolvent according to law; or any assignment of the property of the Tenant for the benefit of creditors; or the appointment of a receiver, guardian, conservator, trustee in bankruptcy or other similar officer to take charge of all or any substantial part of the Tenant's property by a court of competent jurisdiction; or the filing of an involuntary petition against the Tenant under any provisions of the bankruptcy act now or hereafter enacted if the same is not dismissed within ninety (90) days; the filing by the Tenant of any voluntary petition for relief under provisions of any bankruptcy law now or hereafter enacted.
 - (d) The Premises shall become vacant, deserted or abandoned.
 - (e) Tenant's failure to perform or comply with any material agreement, covenant or obligation under the Asset Purchase Agreement or under any of the Ancillary Agreements as defined in the Asset Purchase Agreement (excluding the Bill of Sale, Assignment and Assumption Agreement and Supply Agreement), beyond any applicable notice and cure period relating to such failure.

If an Event of Default shall occur, then, in any such case, the Landlord lawfully may, immediately or at any time thereafter, give notice to the Tenant specifying the Event of Default and this Lease shall come to an end on the date specified therein as fully and completely as if such date were the date herein originally fixed for the expiration of the Lease Term, and the Tenant will then quit and surrender the Premises to the Landlord, but the Tenant shall remain liable as hereinafter provided.

Section 9.2 - Damages.

In the event that this Lease is terminated pursuant to Section 9.1 above, Tenant shall be liable for and shall pay to Landlord (i) all Annual Fixed Rent, Additional Rent and other charges and sums due under this Lease at the time of termination of this Lease or termination of Tenant's right of possession, as the case may be, and (ii) damages equal to the Additional Fixed Rent, Additional Rent, and all other charges and sums due under this Lease for the entire Term, which liability shall survive the termination of this Lease, the re-entry into the Premises by Landlord, and the commencement of any action to secure possession of the Premises. The parties hereby acknowledge and agree that Landlord leased the Premises to Tenant in connection with the consummation of the Asset Purchase Agreement, and that Landlord is otherwise not in the business of, and is not interested in, leasing any portion of the Building to any other party. Accordingly, the parties hereby acknowledge and agree that, to the fullest extent permitted by applicable laws, Landlord shall not be required to exercise any efforts to relet the Premises or any portion thereof to mitigate its damages.

Section 9.3 - Cumulative Rights.

The specific remedies to which the Landlord may resort under the terms of this Lease are cumulative and are not intended to be exclusive of any other remedies or means of redress to which it may be lawfully entitled in case of any breach or threatened breach by the Tenant of any provisions of this Lease. In addition to the other remedies provided in this Lease, the Landlord shall be entitled to the restraint by injunction of the violation or attempted or threatened violation of any of the covenants, conditions or provisions of this Lease or to a decree compelling specific performance of any such covenants, conditions or provisions. Nothing contained in this Lease shall limit or prejudice the right of the Landlord to prove for and obtain in proceedings for bankruptcy, insolvency or like proceedings by reason of the termination of this Lease, an amount equal to the maximum allowed by any statute or rule of law in effect at the time when, and governing the proceedings in which, the damages are to be proved, whether or not the amount be greater, equal to, or less than the amount of the loss or damages referred to above.

Section 9.4 - Self-help.

If the Tenant shall at any time fail to perform or comply with any agreement, covenant or obligation under this Lease, the Landlord shall have the right, but not the obligation, after expiration of any applicable notice and grace period set forth herein, upon reasonable, but in no event more than ten (10) days' notice to the Tenant (except in case of emergency in which case no notice need be given), to perform or cause Tenant's compliance with such agreements, covenants or obligations at Tenant's sole cost and expense. The Landlord may exercise its rights under this Section without waiving any other of its rights or releasing the Tenant from any of its obligations under this Lease.

Section 9.5 - Enforcement Expenses.

Each party hereto shall promptly reimburse the other for all costs and expenses, including without limitation reasonable legal fees, incurred by such party in exercising and enforcing its rights under this Lease following the other party's failure to comply with its obligations hereunder, whether or not such failure constitutes an Event of Default pursuant to Sections 9.1 or 9.7 hereof.

Section 9.6 - Late Charges and Interest on Overdue Payments.

In the event that any payment of Annual Fixed Rent or Additional Rent shall remain unpaid for a period of ten (10) days after the same are due, there shall become due to the Landlord from the Tenant, as Additional Rent and as compensation for the Landlord's extra administrative costs in investigating the circumstances of late rent, a late charge of two percent (2%) of the amount overdue. In addition, any Annual Fixed Rent and Additional Rent not paid when due shall bear interest from the date due to the Landlord until paid at the variable rate (the "Default Interest Rate") equal to the lesser of (i) eighteen percent (18%) per annum or (ii) the maximum interest rate permitted by applicable laws.

Section 9.7 - Landlord's Right to Notice and Cure.

The Landlord shall in no event be in default in the performance of any of the Landlord's obligations hereunder unless and until the Landlord shall have failed to perform such obligations within thirty (30) days, or such additional time as is reasonably required to correct any such default provided such cure is diligently pursued to completion, after notice by the Tenant to the Landlord expressly specifying wherein the Landlord has failed to perform any such obligation.

ARTICLE X

SUBORDINATION; ESTOPPEL CERTIFICATES

Section 10.1 - Subordination.

(a) Landlord reserves the right to demand and obtain from Tenant, and Tenant shall deliver to Landlord within ten (10) days after receipt of such demand, a waiver of priority or subordination of this Lease, in recordable form reasonably acceptable to Tenant, subordinating Tenant's Lease in favor of any mortgages, refinancings, replacements, renewals, modifications, extensions or consolidations placed upon the Premises from time to time by the Landlord; provided that Landlord shall concurrently procure from any mortgagees an agreement (a "SNDA") providing in substance that so long as Tenant shall faithfully discharge the obligations on its part to be kept and performed under the terms of this Lease, Tenant's tenancy will not be disturbed by any default under such mortgage, and Tenant agrees that this Lease shall remain in full force and effect even though default in the mortgage may occur. Tenant agrees to attorn to any ground lessor or any mortgagee or purchaser in a foreclosure sale as Landlord under this Lease. Landlord represents and warrants that there is no current mortgage on the Property.

(b) Tenant covenants and agrees that Tenant shall within ten (10) days after Landlord's request execute in recordable form and deliver to Landlord whatever instruments may be required to acknowledge and further evidence the subordination of Tenant's Lease and/or the attornment by Tenant to such lessor, mortgagee or purchaser. If Tenant within ten (10) days after submission of any such instrument fails to execute the same, Landlord is hereby authorized to execute the same as attorney-in-fact for Tenant.

(c) Any mortgagee of all or any part of the Property may at any time elect to have this Lease have priority over its mortgage, by executing unilaterally an instrument subordinating its mortgage to this Lease, or placing a clause of such subordination in its mortgage and recording the same or in any pleadings filed by such mortgagee, in which events this Lease shall have priority over said mortgage.

Section 10.2 - Estoppel Certificates.

Either party shall from time to time, upon not less than fifteen (15) days' prior written request by the other party, execute, acknowledge and deliver to the requesting party and/or any other designee a statement in writing certifying certain matters with respect to this Lease, all in form and substance reasonably acceptable to the executing party.

ARTICLE XI

MISCELLANEOUS

Section 11.1 – Intentionally Deleted.

Section 11.2 - Notices.

Whenever any notice, approval, consent, request, election, offer or acceptance is given or made pursuant to this Lease, it shall be in writing. Communications and payments shall be addressed, if to the Landlord, at the Landlord's Address for Notices as set forth in Exhibit A or at such other address as may have been specified by prior notice to the Tenant; and if to the Tenant, at the Tenant's Original Address (and following the Commencement Date, at the Premises) or at such other place as may have been specified by prior notice to the Landlord. Any communication so addressed shall be deemed duly given on the earlier of (i) the day following the day of mailing if mailed by a reputable overnight delivery service, or (ii) on the third business day following the day of mailing if mailed by registered or certified mail, return receipt requested. If the Landlord by notice to the Tenant at any time designates some other person to receive payments or notices, all payments or notices thereafter by the Tenant shall be paid or given to the agent designated until notice to the contrary is received by the Tenant from the Landlord.

Section 11.3 - Successors and Limitation on Liability on the Landlord.

Subject to the terms of Section 6.8 of this Lease, the obligations of this Lease shall run with the land, and this Lease shall be binding upon and inure to the benefit of the parties hereto and their respective successors and assigns, except that the original Landlord named herein and each successor Landlord shall be liable only for obligations accruing during the period of its ownership. The obligations of the Landlord shall be binding upon the assets of the Landlord consisting of an equity interest in the Property but not upon other assets of the Landlord and neither the Tenant, nor anyone claiming by, under or through the Tenant, shall be entitled to obtain any judgment creating personal liability on the part of the Landlord or enforcing any obligations of the Landlord against any assets of the Landlord other than an equity interest in the Property.

Section 11.4 - Waivers by the Landlord or Tenant.

The failure of the Landlord or the Tenant to seek redress for violation of, or to insist upon strict performance of, any covenant or condition of this Lease, shall not be deemed a waiver of such violation nor prevent a subsequent act, which would have originally constituted a violation, from having all the force and effect of an original violation. The receipt by the Landlord of Annual Fixed Rent or Additional Rent with knowledge of the breach of any covenant of this Lease shall not be deemed a waiver of such breach. No provision of this Lease shall be deemed to have been waived by the Landlord or the Tenant, unless such waiver be in writing signed by the waiving party. No consent or waiver, express or implied, by the Landlord or the Tenant to or of any breach of any agreement or duty shall be construed as a waiver or consent to or of any other breach of the same or any other agreement or duty.

Section 11.5 - Acceptance of Partial Payments of Rent.

No acceptance by the Landlord of a lesser sum than the Annual Fixed Rent and Additional Rent then due shall be deemed to be other than a partial installment of such rent due, nor shall any endorsement or statement on any check or any letter accompanying any check or payment as rent be deemed an accord and satisfaction, and the Landlord may accept such check or payment without prejudice to the Landlord's right to recover the balance of such installment or pursue any other remedy in this Lease provided. The delivery of keys to any employee of the Landlord or to the Landlord's agent or any employee thereof shall not operate as a termination of this Lease or a surrender of the Premises.

Section 11.6 - Interpretation and Partial Invalidity.

If any term of this Lease, or the application thereof to any person or circumstances, shall to any extent be invalid or unenforceable, the remainder of this Lease, or the application of such term to persons or circumstances other than those as to which it is invalid or unenforceable, shall not be affected thereby, and each term of this Lease shall be valid and enforceable to the fullest extent permitted by law. The titles of the Articles are for convenience only and not to be considered in construing this Lease. This Lease contains all of the agreements of the parties with respect to the subject matter thereof and supersedes all prior dealings between them with respect to such subject matter.

Section 11.7 - Quiet Enjoyment.

So long as the Tenant pays Annual Fixed Rent and Additional Rent, performs all other Tenant covenants of this Lease and observes all conditions hereof, the Tenant shall peaceably and quietly have, hold and enjoy the Premises free of any claims by, through or under the Landlord.

Section 11.8 - Brokerage.

Each party represents and warrants to the other that it has had no dealings with any broker or agent in connection with this Lease and shall indemnify, defend and hold harmless the other from claims for any brokerage commission by any other broker or agent claiming same by, through or under the indemnifying party.

Section 11.9 - Surrender of Premises and Holding Over.

The Tenant shall surrender possession of the Premises on the last day of the Term and the Tenant waives the right to any notice of termination or notice to quit. The Tenant covenants that upon the expiration or sooner termination of this Lease, it shall, without notice, deliver up and surrender possession of the Premises in the same condition in which the Tenant has agreed to keep the same during the continuance of this Lease and in accordance with the terms hereof, reasonable wear and tear excepted, first removing therefrom all items required to be removed pursuant to Section 4.2 of this Lease (with Landlord and Tenant reasonably agreeing upon any such removal plan for any Acquired Assets or other property or equipment which are attached to the Premises), and Tenant repairing all damage caused by such removal. Upon the expiration of this Lease or if the Premises should be abandoned by the Tenant, or this Lease should terminate for any cause, and at the time of such expiration, vacation, abandonment or termination, the Tenant or Tenant's agents, subtenants or any other person should leave any property of any kind or character on or in the Premises, the fact of such leaving of property on or in the Premises shall be conclusive evidence of intent by the Tenant, and individuals and entities deriving their rights through the Tenant, to abandon such property so left in or upon the Premises, and such leaving shall constitute abandonment of the property. Landlord shall have the right and authority without notice to the Tenant or anyone else, to remove and destroy, or to sell or authorize disposal of such property, or any part thereof, without being in any way liable to the Tenant therefor and the proceeds thereof shall belong to the Landlord as compensation for the removal and disposition of such property.

If the Tenant fails to surrender possession of the Premises upon the expiration or sooner termination of this Lease, the Tenant shall pay to Landlord, as rent for any period after the expiration or sooner termination of this Lease an amount equal to two hundred percent (200%) of the Annual Fixed Rent and the Additional Rent required to be paid under this Lease as applied to any period in which the Tenant shall remain in possession. Acceptance by the Landlord of such payments shall not constitute a consent to a holdover hereunder or result in a renewal or extension of the Tenant's rights of occupancy. Such payments shall be in addition to and shall not affect or limit the Landlord's right of re-entry, Landlord's right to collect such damages as may be available at law, or any other rights of the Landlord under this Lease or as provided by law.

Section 11.10 Tenant's Right of First Offer.

(a) Sale Offer. If during the Term of this Lease, Landlord desires to transfer or sell the Property (other than (i) a transfer or sale of the Property in connection with a sale or other transaction involving all or a portion of Landlord's business or assets, (ii) intra-company or

affiliate transfers involving Landlord, or (iii) any other transfer or sale to a special purpose entity created to hold title to the Property for the benefit of Landlord or an affiliate of Landlord without material consideration therefore), then Landlord, prior to selling the Property, must first offer the Property for sale to Tenant in accordance with the terms of this Section 11.10 by delivering written notice thereof to Tenant (the "Sale Notice").

(b) Right of First Offer. For a period of thirty (30) days following receipt of the Sale Notice (the "Sale Period"), Tenant shall have the right and option (the "Right of First Offer"), exercisable by written notice to Landlord delivered within the Sale Period, to elect to make an offer to Landlord to purchase the Property in accordance with terms and conditions to be contained therein (the "Tenant's Offer"). If Tenant declines or fails to timely deliver the Tenant's Offer in the Sale Period, then (i) the Right of First Offer shall forever lapse, (ii) Tenant's rights under this Section 11.10 shall automatically become null and void and of no further force or effect, (iii) Landlord shall be permitted to sell the Property at any time free and clear of the terms of this Section 11.10 and (iv) upon Landlord's request, Tenant shall promptly acknowledge the same in writing for the benefit of Landlord.

(c) If Tenant timely delivers the Tenant's Offer within the Sale Period, then Landlord shall have a period of fifteen (15) days after receipt thereof (the "Acceptance Period") to notify Tenant in writing (the "Landlord's Acceptance Notice") if Landlord accepts Tenant's Offer on the terms and conditions contained therein. If Landlord declines or fails to timely deliver the Landlord's Acceptance Notice in the Acceptance Period, then (i) the Right of First Offer shall forever lapse, (ii) Tenant's Offer and Tenant's rights under this Section 11.10 shall automatically become null and void and of no further force or effect, (iii) Landlord shall be permitted to sell the Property at any time free and clear of the terms of this Section 11.10 and (iv) upon Landlord's request, Tenant shall promptly acknowledge the same in writing for the benefit of Landlord. If Landlord timely delivers the Landlord's Acceptance Notice, then a binding contract shall be deemed to exist between the Tenant and Landlord with respect to the sale of the Property on the terms and conditions set forth in the Tenant's Offer and Landlord and Tenant shall execute a purchase and sale agreement in accordance with the terms thereof.

Section 11.11 Waiver of Jury Trial. Landlord and Tenant hereby waive trial by jury in any action, proceeding or counterclaim brought by either of the parties hereto against the other (except for personal injury, death or property damage) on any matters whatsoever arising out of or in any way connected with this Lease, the relationship of Landlord and Tenant, Tenant's use or occupancy of the Premises, or for the enforcement of any remedy under any statute, emergency or otherwise. If Landlord commences any summary proceeding against Tenant, Tenant will not interpose any counterclaim of whatever nature or description in any such proceeding (unless failure to impose such counterclaim would preclude Tenant from asserting in a separate action the claim which is the subject of such counterclaim), and will not seek to consolidate such proceeding with any other action which may have been or will be brought in any other court by Tenant.

Section 11.13 Signage. Except with respect to any signage (including the location and design thereof), which may otherwise be reasonably agreed to by Landlord and Tenant, Tenant shall not be permitted to erect or place any other signage on the Building or in the Premises without the prior written consent of Landlord, which consent shall not be unreasonably withheld, conditioned or delayed. Tenant, at its sole cost and expense, shall maintain, repair and replace any such permitted signage in good order and repair, ordinary wear and tear excepted. Tenant shall be required to comply with all applicable laws regarding such signage, including, without limitation, obtaining all necessary permits and approvals in connection with the installation thereof.

Section 11.14 Governing Law. This Lease shall be governed by and interpreted and enforced in accordance with the laws of the State of Wisconsin, without giving effect to any choice of law or conflict of laws rules or provisions that would cause the application of the laws of any jurisdiction other than the State of Wisconsin.

[signature page follows]

LANDLORD: VESTA INTERMEDIATE FUNDING, INC.,
a Delaware corporation

By: /s/ Deborah A. Langer

Name: Deborah A. Langer
Title: President

TENANT: SIENTRA, INC.,
a Delaware corporation

By: /s/ Jeffrey Nugent

Name: Jeffrey Nugent
Title: Chief Executive Officer

[Signature Page to Lease]

EXHIBIT A

Basic Lease Terms

Commencement Date: November 7, 2019.

Annual Fixed Rent for the Term: \$200,000 for each of the first (1st) and second (2nd) years of the Initial Term, and \$320,000 for each of the third (3rd) and fourth (4th) years of the Initial Term. Additional Fixed Rent during the Extended Term shall be as set forth in Section 2.6 of this Lease.

Initial Term: Forty-Eight (48) months from the Commencement Date.

Landlord's Original Address: Vesta Intermediate Funding, Inc.
9900 South 57th Street
Franklin, WI 53132

Landlord's Address for Notices: Landlord's Original Address with copies in like manner to:
[***]
[***]
[***]

And:
[***]
[***]
[***]
[***]

Premises: The Initial Premises shall consist of approximately 11,982 square feet of space located in the Building, as depicted on Exhibit B-1, attached hereto and incorporated by reference herein.

The Expansion Premises shall consist of approximately 11,703 square feet of space located in the Building, as depicted on **Exhibit C**, attached hereto and incorporated by reference herein.

Permitted Uses:

The manufacture, storage and shipment of silicone-based medical devices substantially consistent with the use of the Premises by Landlord prior to the date hereof, and necessary uses related thereto, including office use related thereto, and for no other purpose.

Tenant's Original Address:

Sientra, Inc.
420 S. Fairview Avenue, Suite 200
Santa Barbara, California 93117

And :

[***]

[***]

[***]

[***]

Total Floor Area of Building:

Approximately 112,520 sf, as same may be adjusted in accordance with Section 3.1 of this Lease.