UNITED STATES
SECURITIES AND EXCHANGE COMMISSION
Washington, DC 20549
FORM 10-K

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

For the fiscal year ended **December 31, 2018**

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

For the transition period from to

Commission file number 000-51222

DEXCOM, INC.

(Exact name of Registrant as specified in its charter)

Delaware	**33-0857544**
(State or Other Jurisdiction of Incorporation or Organization)	(I.R.S. Employer Identification No.)
6340 Sequence Drive **San Diego, California**	**92121**
(Address of Principal Executive Offices)	(Zip Code)

Registrant's Telephone Number, including area code: (858) 200-0200

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

Title of Each Class	**Name of Each Exchange on Which Registered**
Common Stock, $0.001 Par Value Per Share	The Nasdaq Stock Market LLC (Nasdaq Global Select Market)

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

Indicate by check mark if the Registrant is a well-known seasoned issuer, as defined in Rule 405 of the Securities Act.
Yes ☒ No ☐

Indicate by check mark if the Registrant is not required to file reports pursuant to Section 13 or 15(d) of the Exchange Act.
Yes ☐ No ☒

Indicate by check mark whether the Registrant (1) has filed all reports required to be filed by Section 13 or 15(d) of the Securities Exchange Act of 1934 during the preceding 12 months (or for such shorter period that the Registrant was required to file such reports), and (2) has been subject to such filing requirements for the past 90 days. Yes ☒ No ☐

Indicate by check mark whether the registrant has submitted electronically every Interactive Data File required to be submitted pursuant to Rule 405 of Regulation S-T (§232.405 of this chapter) during the preceding 12 months (or for such shorter period that the registrant was required to submit and post such files). Yes ☒ No ☐

Indicate by check mark if disclosure of delinquent filers pursuant to Rule 405 of Regulation S-K is not contained herein, and will not be contained, to the best of Registrant's knowledge, in definite proxy or information statements incorporated by reference in Part III of this Form 10-K or any amendment to this Form 10-K. ☒

Indicate by check mark whether the Registrant is a large accelerated filer, an accelerated filer, a non-accelerated filer, a smaller reporting company or an emerging growth company. See the definitions of "large accelerated filer," "accelerated filer," "smaller reporting company" and "emerging growth company" in Rule 12b-2 of the Exchange Act.

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

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

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

As of June 29, 2018, the last business day of the Registrant's most recently completed second fiscal quarter, the aggregate market value of the registrant's common stock held by non-affiliates of the registrant was approximately $8.276 billion based on the closing sales price of $94.98 per share as reported on the Nasdaq Global Select Market.

Indicate the number of shares outstanding of each of the issuer's classes of common stock, as of the latest practicable date.

Class	**Outstanding at February 15, 2019**
Common stock, $0.001 par value per share	90,001,767

DOCUMENTS INCORPORATED BY REFERENCE

Portions of the Registrant's definitive proxy statement relating to its 2019 Annual Meeting of Stockholders (the Proxy Statement) are incorporated by reference in Part III, Items 10 through 14 of this Annual Report on Form 10-K, as specified in the responses to those item numbers. Except with respect to information specifically incorporated by reference in the Form 10-K, the Proxy Statement is not deemed to be filed as part hereof.

DexCom, Inc.
Table of Contents

CAUTIONARY NOTE REGARDING FORWARD-LOOKING STATEMENTS

Except for historical financial information contained herein, the matters discussed in this Form 10-K may be considered forward-looking statements within the meaning of Section 27A of the Securities Act of 1933, as amended, and Section 21E of the Securities Exchange Act of 1934, as amended, and subject to the safe harbor created by the Securities Litigation Reform Act of 1995. Such statements include declarations regarding our intent, belief, or current expectations and those of our management. Prospective investors are cautioned that any such forward-looking statements are not guarantees of future performance and involve a number of risks, uncertainties and other factors, some of which are beyond our control; actual results could differ materially from those indicated by such forward-looking statements. Important factors that could cause actual results to differ materially from those indicated by such forward-looking statements include, but are not limited to: (i) that the information is of a preliminary nature and may be subject to further adjustment; (ii) those risks and uncertainties identified under "Risk Factors"; and (iii) the other risks detailed from time-to-time in our reports and registration statements filed with the Securities and Exchange Commission, or SEC. Except as required by law, we undertake no obligation to revise or update publicly any forward-looking statements, whether as a result of new information, future events or otherwise.

PART I

ITEM 1. BUSINESS

Overview

We are a medical device company primarily focused on the design, development and commercialization of continuous glucose monitoring, or CGM, systems for use by people with diabetes and by healthcare providers. We received approval from the United States (U.S.) Food and Drug Administration, or FDA, and commercialized our first product in 2006. We launched our latest generation system, the DexCom G6® integrated Continuous Glucose Monitoring System, or G6, in 2018. Unless the context requires otherwise, the terms "we," "us," "our," the "company," or "DexCom" refer to DexCom, Inc. and its subsidiaries.

Products

DexCom G6®

In March 2018, we obtained marketing authorization from the FDA for the G6 via the *de novo* process. The G6 is the first type of continuous glucose monitoring system permitted by the FDA to be used as part of an integrated system with other compatible medical devices and electronic interfaces, which may include automated insulin dosing systems, insulin pumps, blood glucose meters or other electronic devices used for diabetes management. G6 and substantially equivalent devices of this generic type that may later receive marketing authorization are referred to as integrated continuous glucose monitoring systems or iCGMs, and have been classified as Class II devices. Along with this classification, the FDA established criteria, called special controls, which outline requirements for assuring CGM accuracy, reliability and clinical relevance, and which also describe the type of studies and data required to demonstrate acceptable CGM performance.

The G6 is designed to allow our transmitter to run an algorithm to generate a glucose value and to communicate directly to a patient's compatible mobile device, including iPhone®, iPod touch®, iPad®, and certain Android® mobile devices. A patient's glucose data can also be displayed on wearable devices, like the Apple Watch® and Wear OS by Google devices. The G6 transmitter has a labeled useful life of three months. Data from the G6 can be integrated with DexCom CLARITY®, our cloud-based reporting software, for personalized, easy-to-understand analysis of trends that may improve diabetes management. In June 2018, we received Conformité Européenne Marking, or CE Mark, approval for the G6, which allows us to market the system in the European Union and the countries in Asia and Latin America that recognize the CE Mark, as well as New Zealand (subject to compliance with certain local administrative requirements) though certain countries may require additional marketing authorizations (for example, the inclusion of medical devices on the Australian Register of Therapeutic Goods in Australia).

The sensor is inserted by the user and is intended to be used continuously for up to ten days, after which it may be replaced with a new disposable sensor. Our transmitter is reusable until it reaches the end of its use life. Our receiver is also reusable. As we establish an installed base of customers using our products, we expect to generate an increasing portion of our revenues through recurring sales of our disposable sensors.

The G6 carries forward important features of prior generation DexCom CGM systems:

- **Continuous glucose readings.** Automatically sends glucose readings to a DexCom receiver or compatible mobile device every five minutes.
- **Mobile app and sharing.** Compatibility with mobile device applications allows for sharing glucose information with up to five people for added support.
- **Customizable alarms and alerts.** Personalized alert schedule immediately warns the user of pending dangerous high and low blood sugars.
- **Third-party reimbursement.** In the United States, the G6 is covered by those commercial insurers that reimburse for the G5 Mobile, as well as Medicare.

The G6 also has a number of new or improved features compared to our prior generation devices:

- **Finger stick elimination.** No finger sticks are needed for calibration or diabetes treatment decisions, consistent with the instructions for use.
- **Easy sensor application.** Complete redesign of the sensor applicator allows for one-touch, simple insertion.
- **Discreet and low profile.** A redesigned transmitter with a 28% lower profile than the previous generation DexCom CGM makes the device comfortable and easy to wear under clothing.
- **Medication blocking.** New feature allows for more accurate glucose readings without interference from medications taken at typical indication doses, such as acetaminophen.
- **Predictive low alert.** New alert feature intended to predict hypoglycemia before it hits to help avoid dangerous low blood sugar events.
- **Extended 10-day sensor.** 10-day sensor allows for 43% longer wear than previous generation DexCom CGMs.

Except with respect to the foregoing, the G6 is equivalent to our prior generation CGM systems in its technical capabilities and its indications, except that since the G6 is classified by the FDA as a Class II device, it is subject to special controls and modifications of or revisions to the device may be made under the 510(k) process.

DexCom G5® Mobile

In August 2015, we received approval from the FDA for the DexCom G5 Mobile Continuous Glucose Monitoring System, also referred to as the G5 Mobile. The G5 Mobile is designed to allow our transmitter to run the Software 505 algorithm, and to communicate directly to a patient's compatible mobile device, including iPhone, iPod touch, iPad, and certain Android mobile devices. The G5 Mobile transmitter has a labeled useful life of three months. Data from the G5 Mobile can be integrated with DexCom CLARITY. In September 2015, we launched the G5 Mobile in certain countries in Europe.

Similar to the G6, the disposable sensor is inserted by the user and is intended to be used continuously for up to seven days, after which it may be replaced with a new sensor. The related transmitter is reusable until it reaches the end of its use life, and the related receiver is also reusable. In December 2016, the FDA approved the G5 Mobile as the first CGM system in the United States to have a non-adjunctive indication. The non-adjunctive indication expands the lawfully permitted use of the G5 Mobile as a replacement to finger stick glucose testing for diabetes treatment decisions. With the new label indication, the G5 Mobile only requires two finger sticks per day for calibration. In the countries and regions outside of the United States that recognize the CE Mark, as well as the United States and Canada, the G5 Mobile also does not require confirmatory finger sticks when making treatment decisions, although a minimum of two finger sticks a day remain necessary for calibration. Approval of the non-adjunctive indication also was an important and necessary step in enabling people with Medicare to access CGM.

Except with respect to the foregoing, the G5 Mobile is functionally equivalent to our earlier generation CGM systems in its technical capabilities and its regulatory requirements and indications.

DexCom G4® PLATINUM

The DexCom G4 PLATINUM CGM system, or G4 PLATINUM, replaced our DexCom SEVEN PLUS system beginning in 2012, when it was approved for up to seven days of continuous use by adults with diabetes. Since 2012, we have marketed the G4 PLATINUM under a CE Mark in the European Union, the countries in Asia and Latin America that recognize the CE Mark, New Zealand and Australia, and in the United States with approval from the FDA. We received approvals for a pediatric indication under the CE Mark in February 2013 and from the FDA in February 2014, enabling us to market and sell this system to persons two years old and older who have diabetes. In June 2014, we received approval

from the FDA for an expanded indication for the G4 PLATINUM for professional use, which allows healthcare professionals to purchase the G4 PLATINUM system for use with multiple patients. Healthcare professionals can use the insights gained from a G4 PLATINUM professional session to adjust therapy and to educate and motivate patients to modify their behavior after viewing the effects that specific foods, exercise, stress and medications have on their glucose levels. In October 2014, we launched our Software 505 algorithm for the G4 PLATINUM, an algorithm which enabled our systems to achieve a single digit MARD – a measure of the accuracy of continuous glucose monitoring.

DexCom Share®

In 2015, we received approval from the FDA for the G4 PLATINUM with DexCom Share, or Share, and began commercializing this product in the United States in the first quarter of 2015 using a secure wireless connection between a patient's G4 PLATINUM receiver and an app. We now offer this feature through the G6 and the G5 Mobile apps as well as the Share2 app, which works with the G4 PLATINUM receiver with Share. The Share remote monitoring system uses an app on the patient's iPhone, iPod touch, iPad or Android mobile device to transmit glucose information to the cloud and then to apps on the mobile devices of up to five designated recipients, or "followers," who can remotely monitor a patient's glucose information and receive alert notifications anywhere they have an Internet or cellular connection. A patient's glucose data can also be displayed on a patient's or follower's wearable device, such as the Apple Watch and Wear OS by Google devices, when used in conjunction with the patient's or follower's iPhone or Android mobile device.

Data and Insulin Delivery Collaborations

We have entered into multiple collaboration agreements that leverage our technology platform to integrate our continuous glucose monitoring products with insulin delivery systems. The general purpose of these development and commercial relationships is to integrate our technology into the insulin pump or pen product offerings of the respective partner, enabling the partner's insulin delivery device to receive and display glucose readings from our transmitter and, in some cases, use the glucose readings for semi-automated insulin delivery. Currently, we have announced significant insulin delivery partnerships with Eli Lilly, Insulet, Novo Nordisk and Tandem Diabetes. In addition to these major partners, we are working with other companies that are pursuing varying strategies surrounding semi-automated insulin delivery and data analytics to improve outcomes and ease-of-use in diabetes management.

Verily Collaboration

On November 20, 2018, we entered into an Amended and Restated Collaboration and License Agreement with Verily Life Sciences LLC (an Alphabet Company) and Verily Ireland Limited (collectively, Verily), which we refer to as the Restated Collaboration Agreement. This replaced our original Collaboration and License Agreement with Verily from August 2015, as amended in October 2016, and eliminated any future royalty obligations under the original agreement. Pursuant to the Restated Collaboration Agreement, we and Verily have agreed to continue to jointly develop a certain next-generation CGM product, and potentially one or more additional CGM products, for which we will have exclusive commercialization rights.

The Restated Collaboration Agreement also provides us with an exclusive license to use intellectual property of Verily resulting from the collaboration, and certain Verily patents, in the development, manufacture and commercialization of blood-based or interstitial glucose monitoring products more generally (subject to certain exclusions, which are outside the CGM field as it is commonly understood). It also provides us with non-exclusive license rights under Verily's other intellectual property rights to develop, manufacture, and commercialize those kinds of glucose monitoring products and certain CGM-product companion software functionalities. The Restated Collaboration Agreement requires us to use commercially reasonable efforts to develop, launch, and commercialize the CGM product(s) that are the subject of the collaboration according to certain timing and other objectives, and provides for one executive sponsor from each of us and Verily to meet periodically and make decisions related to the collaboration (within a limited scope of authority) by consensus.

In consideration of Verily's performance of its obligations under the joint development plan of the Restated Collaboration Agreement, the licenses granted to us and the amendment of the original agreement, we made an upfront payment, and will make potential future milestone and incentive payments upon the achievement of certain goals, as follows:

- On December 28, 2018, we made an initial payment of $250 million in shares of our common stock, calculated under the Restated Collaboration Agreement to be 1,840,943 shares of our common stock, allocated between Verily and Onduo, LLC, subject to certain transfer restrictions.
- Additional milestone payments of up to $275 million may become due and payable by us upon the achievement of future product regulatory approval and revenue milestones. At our election, we may make these milestone

payments in shares of our common stock, also allocated between Verily and Onduo, LLC, with the number of shares being calculated based on the same share value that was used for purposes of the initial payment, adjusted for stock splits, dividends, and the like, subject to customary closing conditions, including any required antitrust approvals applicable to the issuance of such shares. Alternatively, at our election, we may make any of these milestone payments in cash. Any such cash payment would be equal to the number of shares that would otherwise be issued for the given milestone payment (calculated as described above) multiplied by the value of our stock on the date the relevant milestone is achieved, adjusted for stock splits, dividends, and the like.

- An additional payment of up to $5 million will become due and payable by us as an incentive payment if Verily completes its development obligations at least thirty days before an agreed-upon deadline.

Future Products

We plan to develop future generations of technologies focused on improved performance and convenience and that will enable intelligent insulin administration. We also are aggressively exploring how to extend our offerings to other opportunities, including for people with Type 2 diabetes that are non-insulin using, people with pre-diabetes, people who are obese, people with gestational diabetes and in the hospital setting. We will continue to develop a networked platform with open architecture, connectivity and transmitters capable of communicating with other devices and software systems. We also intend to expand our efforts to accumulate CGM patient data and metrics and apply predictive modeling and machine learning to generate interactive CGM insights that can inform patient behavior.

Our product development timelines depend on our ability to achieve clinical endpoints, regulatory and legal requirements and to overcome technology challenges. Product development timelines may be delayed due to extended regulatory approval timelines, scheduling issues with patients and investigators, requests from institutional review boards, sensor performance and manufacturing supply constraints, among other factors. In addition, support of these clinical trials requires significant resources from employees involved in the production of our products, including research and development, manufacturing, quality assurance, and clinical and regulatory personnel. Even if our development and clinical trial efforts are successful, the FDA may not approve, clear or otherwise authorize our products, and even if authorized, we may not achieve acceptance in the marketplace by physicians and people with diabetes.

Background

Diabetes is a disease with significant adverse consequences for human health throughout the world. The International Diabetes Federation, or IDF, estimates that in 2017, 425 million people around the world had diabetes, and the Centers for Disease Control, or CDC, estimates that in 2017, diabetes affected 30.3 million people in the United States, of which 7.2 million were undiagnosed. IDF estimates that by 2045, the worldwide incidence of people suffering from diabetes will reach 629 million. According to the CDC's National Vital Statistics Reports for 2015, diabetes was the seventh leading cause of death by disease in the United States. According to the Congressional Diabetes Caucus website, diabetes is the leading cause of kidney failure, adult-onset blindness, lower-limb amputations, and significant cause of heart disease and stroke, high blood pressure and nerve damage. According to the IDF, there were an estimated 4 million deaths attributable to diabetes globally in 2017 between the ages of 20 and 79 years. The American Diabetes Association, or ADA, Fast Facts, revised in August 2017, states that diabetes is the primary cause of death for more than 80,000 Americans each year, and contributes to the death of more than 250,000 Americans annually. According to an article published in *The New England Journal of Medicine* in November 2014, excess mortality for people with diabetes with ages of less than 30 years is largely explained by acute complications of diabetes.

Among people of all ages, 2017 data indicated the following: An estimated 24.7 million people or 7.6% of the U.S. population had been diagnosed with diabetes. In addition to those newly diagnosed, the Congressional Diabetes Caucus website reports that every 24 hours there are: 238 amputations in people with diabetes, 120 people who enter end-stage kidney disease programs, and 48 people who go blind.

According to the ADA, one in every four healthcare dollars was spent on treating people with diabetes in 2017, and the direct medical costs and indirect expenditures attributable to diabetes in the United States were an estimated $327 billion, an inflation-adjusted increase of approximately 26% since 2012. Of the $327 billion in overall expenses, the ADA estimated that approximately $237 billion were direct costs associated with diabetes care, chronic complications and excess general medical costs, and $90 billion were indirect costs. The ADA also found that average medical expenditures among people with diagnosed diabetes were 2.3 times higher than for people without diabetes in 2017. According to the IDF, 2017 expenditures attributable to diabetes were estimated to be $727 billion globally. The IDF estimates that expenditures attributable to diabetes will grow to $776 billion globally by 2045.

Continuous Glucose Monitoring

We believe continuous glucose monitoring has the potential to enable more people with diabetes to achieve and sustain tight glycemic control. The landmark 1993 Diabetes Control and Complications Trial, or DCCT, demonstrated that improving blood glucose control lowers the risk of developing diabetes-related complications by up to 50%. The study also demonstrated that people with Type 1 diabetes achieved sustained benefits with intensive management. Yet, according to an article published in the *Journal of the American Medical Association* in 2004, less than 50% of diabetes patients were meeting ADA standards for glucose control (A1c), and only 37% of people with diabetes were achieving their glycemic targets. According to an article published in *The New England Journal of Medicine* in November 2014, in two national registries, only 13% to 15% of people with diabetes met treatment guidelines for good glycemic control, and more than 20% had very poor glycemic control. The CDC estimated that as of 2010, 63.6% of all adults with diabetes were monitoring their blood glucose levels on a daily basis, with a substantially higher percentage for insulin-requiring patients.

Various clinical studies also demonstrate the benefits of continuous glucose monitoring and that continuous glucose monitoring is equally effective in patients who administer insulin through multiple daily injections or through use of continuous subcutaneous insulin infusion pumps. Results of a Juvenile Diabetes Research Foundation, or JDRF, study published in the *New England Journal of Medicine* in 2008, and the extension phase of the study, published in *Diabetes Care* in 2009, demonstrated that continuous glucose monitoring improved A1c levels and reduced incidence of hypoglycemia for patients over the age of 25 and for all patients of all ages who utilized continuous glucose monitoring regularly. In 2016, the first and only randomized, controlled study focusing solely on the benefit of continuous glucose monitoring for diabetes patients using multiple daily injections, or MDI, insulin therapy showed DexCom CGM System users on MDI achieved a one percent average A1c reduction after 24 weeks of regular use, compared to their baseline. Study participants also increased time spent in their target A1c range and spent less time in hypoglycemia and hyperglycemia when they used a DexCom CGM System compared to those who used only a standard blood glucose meter to monitor their glucose. This DIaMonD (Multiple Daily Injections and Continuous Glucose Monitoring in Diabetes) study is the first-of-its-kind in demonstrating the impact of CGM only, without insulin pumps or other therapeutic interventions, on A1c and hypoglycemia in participants using a multiple daily injection insulin regimen.

Our current target market consists primarily of people with Type 1 and Type 2 diabetes who utilize insulin pump therapy or who utilize multiple daily insulin injections. We have recently begun to target people with Type 2 diabetes on multiple daily injection therapy and expect to expand our target market to include all people with diabetes, people with pre-diabetes and people who are obese. Although the majority of our revenue has been generated in the United States, we have expanded our operations to include Canada, Australia, New Zealand, and certain countries in Europe, Asia, the Middle East, Latin America and Africa.

Commercial Operations

We have built a direct sales organization in the United States, Canada and certain countries in Europe to call on endocrinologists, physicians and diabetes educators who can educate and influence patient adoption of continuous glucose monitoring. We believe that focusing efforts on these participants is important given the instrumental role they each play in the decision-making process for diabetes therapy. To complement our direct sales efforts, we have entered into distribution arrangements in the United States and internationally that allow distributors to sell our products. We believe our direct, highly specialized and focused sales organization and our domestic and international distribution agreements are sufficient for us to support our sales efforts for at least the next twelve months.

Product revenues are generated from the sale of durable continuous glucose monitoring systems (receivers and transmitters) and disposable sensors through a direct sales force in the United States, the United Kingdom, Germany, Switzerland, Austria and Canada as well as through distribution arrangements in the United States, Canada, Australia, New Zealand, and certain countries in Europe, Asia, Latin America, the Middle East and Africa.

Market Opportunity

Diabetes

Diabetes is a chronic, life-threatening disease for which there is no known cure. The disease is caused by the body's inability to produce or effectively utilize the hormone insulin. This inability prevents the body from adequately regulating blood glucose levels. Glucose, the primary source of energy for cells, must be maintained at certain concentrations in the blood in order to permit optimal cell function and health. Normally, the pancreas provides control of blood glucose levels by secreting the hormone insulin to decrease blood glucose levels when concentrations are too high. In people with diabetes, the body does not produce sufficient levels of insulin, or fails to utilize insulin effectively, causing blood glucose levels to rise above normal. This condition is called hyperglycemia and often results in acute complications as well as

chronic long-term complications such as heart disease, limb amputations, loss of kidney function and blindness. When blood glucose levels are high, people with diabetes often administer insulin in an effort to decrease blood glucose levels. Unfortunately, insulin administration can drive blood glucose levels below the normal range, resulting in hypoglycemia. In cases of severe hypoglycemia, people with diabetes risk acute complications, such as loss of consciousness or death. Due to the drastic nature of acute complications associated with hypoglycemia, many people with diabetes are reluctant to reduce blood glucose levels. Consequently, these individuals often remain in a hyperglycemic state, increasing their odds of developing long-term chronic complications. Diabetes is typically classified into two major groups: Type 1 and Type 2.

Type 1 Diabetes

According to the ADA and JDRF, as of 2012 there were an estimated 1.3 million people with Type 1 diabetes in the United States. Type 1 diabetes is an autoimmune disorder that usually develops during childhood and is characterized by an absence of insulin, resulting from destruction of the insulin producing cells of the pancreas. Individuals with Type 1 diabetes must rely on frequent insulin injections in order to regulate and maintain blood glucose levels.

According to JDRF, 40,000 people are diagnosed with Type 1 diabetes each year in the United States and between the years 2001 and 2009 there was a 21% increase in the prevalence of Type 1 diabetes in people under the age of 20. In addition, according to the National Diabetes Statistics Report in 2009, there were an estimated 18,436 people younger than the age of 20 years old were diagnosed with Type 1 diabetes in the United States.

Type 2 Diabetes

According to the ADA, in 2012 there were approximately 27.8 million people in the United States with Type 2 diabetes. Type 2 diabetes is a metabolic disorder which results when the body is unable to produce sufficient amounts of insulin or becomes insulin resistant. Depending on the severity of Type 2 diabetes, individuals may require diet and nutrition management, exercise, oral medications or insulin injections to regulate blood glucose levels. We estimate that approximately 6.0 million Type 2 patients must use insulin to manage their diabetes.

Type 2 diabetes is occurring with increasing frequency in young people, with the increase in prevalence related to an increase in obesity amongst children. According to the CDC, as of 2016, approximately 18.5% of children and adolescents aged 2-19 years, or 13.7 million children, in the United States were obese. Childhood obesity has more than doubled in children and quadrupled in adolescents in the past 30 years.

Diabetes and Glucose Management in the Hospital Setting

There are various subgroups of people with diabetes, including in-hospital patients, who present significant management challenges. According to the ADA, diabetes-related inpatient hospitalizations totaled 40.3 million days and 22.2 million outpatient visits in 2017, with outpatient visits increasing 48% since 2012. Additionally, market research shows that over 1.6 million patients are admitted with hyperglycemia prior to elective surgery, which results in delays and increased length of stay. Once admitted, studies conducted by *Hospital Health Network* in 2013 and AACE in 2011 suggest that approximately 28% of patients experience hyperglycemia and 5% of patients experience hypoglycemia, both of which are preventable. After discharge, patients who experienced hyperglycemia or hypoglycemia in the hospital have a higher rate of readmission within 30 days. Approximately 30% of all health care expenditures incurred by people with diabetes come from higher rates of hospital admission and longer average lengths of stay per admission, constituting the single largest contributor to the medical cost of diabetes. Of the projected $486 billion in national expenditures for hospital inpatient care in 2017, approximately $123 billion is incurred by people who have diabetes, of which $70 billion is directly attributed to their diabetes.

Importance of Glucose Monitoring

Blood glucose levels can be affected by many factors, including the carbohydrate and fat content of meals, exercise, stress, illness or impending illness, hormonal releases, variability in insulin absorption and changes in the effects of insulin in the body. Given the many factors that affect blood glucose levels, maintaining glucose within a normal range is difficult, resulting in frequent and unpredictable excursions above or below normal blood glucose levels. People with diabetes administer insulin or ingest carbohydrates throughout the day in order to maintain blood glucose levels within normal ranges. People with diabetes frequently overcorrect and fluctuate between hyperglycemic and hypoglycemic states, often multiple times during the same day. As a result, many people with diabetes are routinely outside the normal blood glucose range. People with diabetes are often unaware that their glucose levels are either too high or too low, and their inability to completely control blood glucose levels and the associated serious complications can be frustrating and, at times, overwhelming.

In an attempt to maintain blood glucose levels within the normal range, people with diabetes must first measure their blood glucose levels. Often after measuring their blood glucose levels, people with diabetes make therapeutic adjustments. As adjustments are made, additional blood glucose measurements may be necessary to gauge the individual's response to the adjustments. More frequent testing of blood glucose levels provides people with diabetes with information that can be used to better understand and manage their diabetes. The ADA recommends that most people with Type 1 diabetes test their blood glucose levels at least three or more times per day, and that significantly more frequent testing may be required to reach A1c targets safely without hypoglycemia.

Clinical outcomes data support the notion that an important component of effective diabetes management is frequent monitoring of blood glucose levels. The landmark 1993 DCCT consisting of patients with Type 1 diabetes, and the 1998 UK Prospective Diabetes Study, consisting of patients with Type 2 diabetes, demonstrated that people with diabetes who intensely managed blood glucose levels delayed the onset and slowed the progression of diabetes-related complications. The DCCT demonstrated that intensive management reduced the risk of complications by 76% for eye disease, 60% for nerve disease and 50% for kidney disease, but also found that it led to a three-fold increase in the frequency of hypoglycemic events. In the December 2005 edition of the *New England Journal of Medicine*, the authors of a peer-reviewed study concluded that intensive diabetes therapy has long-term beneficial effects on the risk of cardiovascular disease in patients with Type 1 diabetes. The study showed that intensive diabetes therapy reduced the risk of cardiovascular disease by 42% and the risk of non-fatal heart attack, stroke or death from cardiovascular disease by 57%.

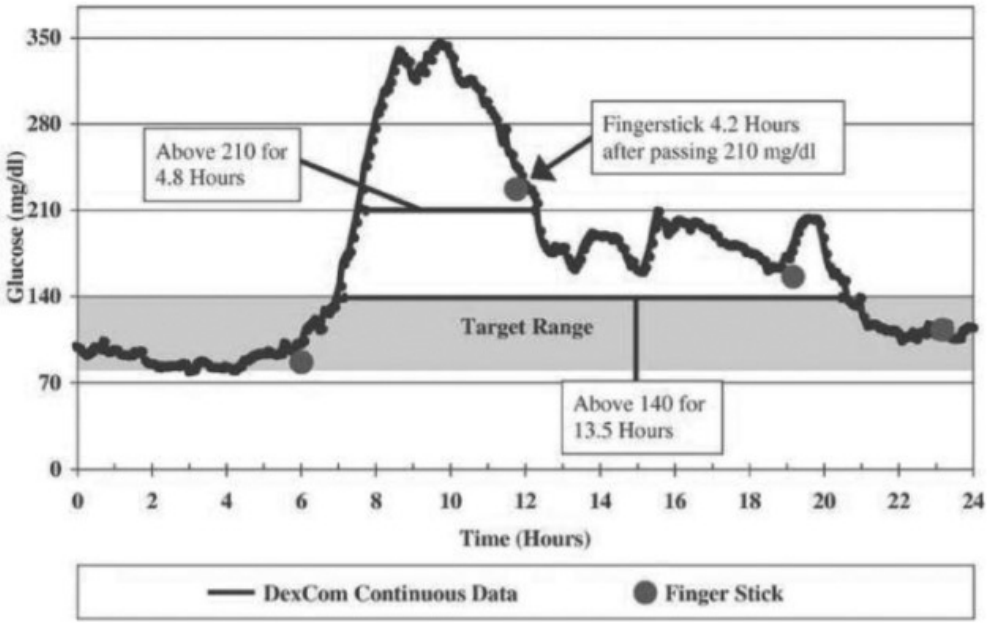
Limitations of Existing Glucose Monitoring Products

Single-point finger stick devices are the most prevalent devices for glucose monitoring. These devices require taking a blood sample with a finger stick, placing a drop of blood on a test strip and inserting the strip into a glucose meter that yields a single point in time blood glucose measurement. We believe that these devices suffer from several limitations, including:

- **Limited Information.** Even if people with diabetes test several times each day, each measurement represents a single blood glucose value at a single point in time. Given the many factors that can affect blood glucose levels, excursions above and below the normal range often occur between these discrete measurement points in time. Without the ability to determine whether their blood glucose level is rising, falling or holding constant, and the rate at which their blood glucose level is changing, the individual's ability to effectively manage and maintain blood glucose levels within normal ranges is severely limited. Further, people with diabetes cannot test themselves during sleep, when the risk of hypoglycemia is significantly increased.

  The following graph shows the limited information provided by four single-point measurements during a single day using a traditional single-point finger stick device, compared to the data provided by our continuous sensor. The data presented in the graph is from a clinical trial we completed in 2003 with a continuous glucose monitoring system, where the patient was blinded to the continuous glucose data. The continuous data indicates that, even with four finger sticks in one day, the patient's blood glucose levels were above the target range of 80-140 milligrams per deciliter ("mg/dl") for a period of 13.5 hours.

Single Day Continuous Data



- **Inconvenience.** The process of measuring blood glucose levels with single-point finger stick devices can cause significant disruption in the daily activities of people with diabetes and their families. People with diabetes using single-point finger stick devices must stop whatever they are doing several times per day, self-inflict a painful prick and draw blood to measure blood glucose levels. To do so, people with diabetes must always carry a fully supplied kit that may include a spring-loaded needle, or lancet, disposable test strips, cleansing wipes and the meter, and then safely dispose of the used supplies. This process is inconvenient and may cause uneasiness in social situations.
- **Difficulty of Use.** To obtain a sample with single-point finger stick devices, people with diabetes generally prick one of their fingertips or, occasionally, a forearm with a lancet. They then squeeze the area to produce the blood sample and another prick may be required if a sufficient volume of blood is not obtained the first time. The blood sample is then placed on a disposable test strip that is inserted into a blood glucose meter. This task can be difficult for individuals with decreased tactile sensation and visual acuity, which are common complications of diabetes.
- **Pain.** Although the fingertips are rich in blood flow and provide a good site to obtain a blood sample, they are also densely populated with highly sensitive nerve endings. This makes the lancing and subsequent manipulation of the finger to draw blood painful. The pain and discomfort are compounded by the fact that fingers offer limited surface area, so tests are often performed on areas that are sore from prior tests. People with diabetes may also suffer pain when the finger prick site is disturbed during regular activities.

The DexCom Solution

Our G4 PLATINUM, G5 Mobile and G6 systems offer the following advantages to people with diabetes:

- **Improved Outcomes.** Results of a major multicenter clinical trial funded by the JDRF demonstrated that patients with Type 1 diabetes who used continuous glucose monitoring devices to help manage their disease experienced significant improvements in glucose control. Data published in a peer-reviewed article based on the pivotal trial for our first-generation system demonstrated that patients using the system showed statistically significant improvements in glucose levels within the target range when compared to patients relying solely on single-point finger stick measurements. Additional peer-reviewed published data has demonstrated that patients with access to seven days of continuous glucose data statistically improved glucose control by further increasing their time spent

with glucose levels in the target range, thereby reducing time spent in both hyperglycemic and hypoglycemic ranges. Finally, peer reviewed data published from the DIaMonD study demonstrated that DexCom CGM System users on MDI (multiple daily injections) achieved a one percent average reduction in hemoglobin A1c levels, a measure of the average amount of glucose in the blood over the prior three months, after 24 weeks of regular use, compared to their baseline. Study participants also increased time spent in their target A1c range and spent less time in hypoglycemia and hyperglycemia when they used a DexCom CGM system compared to those who used only a standard blood glucose meter to monitor their glucose.

- **Access to Real-Time Values, Trend Information and Alerts.** At their fingertips, people with diabetes can view their current glucose value, along with a graphical display of the historical trend information on our receiver or alternate display device. Without continuous monitoring, the individual is often unaware if his or her glucose is rising, declining or remaining constant. Access to continuous real-time glucose measurements provides people with diabetes information that may aid in attaining better glucose control. Additionally, our G4 PLATINUM, G5 Mobile and G6 systems alert people with diabetes when their glucose levels approach inappropriately high or low levels so that they may intervene.
- **Intuitive User Interface.** We have developed a user interface that we believe is intuitive and easy to use. The G5 Mobile and G6 receiver are compact with an easy-to-read color display, simple navigation tools, audible alerts and graphical display of trend information. Similar benefits are available via the interfaces we have made available on compatible mobile devices. These devices can serve as substitutes for our receivers or alternate display units in certain geographies.
- **Convenience and Comfort.** Our G4 PLATINUM, G5 Mobile and G6 systems provide people with diabetes with the benefits of continuous monitoring, without having to perform finger stick tests for every measurement. Additionally, the disposable sensor that is inserted under the skin is a very thin wire, minimizing potential discomfort associated with inserting or wearing the disposable sensor. The external portion of the sensor, attached to the transmitter, is small, has a low profile and is designed to be easily worn under clothing. The wireless receiver is the size of a small smart phone and can be carried discreetly in a pocket or purse. We believe that convenience is an important factor in achieving widespread adoption of a continuous glucose monitoring system.
- **Connectivity to Wearables and Others.** Patients can monitor their glucose levels and trends on compatible wearable devices, such as Apple Watch and Wear OS by Google devices, when used with a compatible mobile device. Also, our Share remote monitoring systems enable users of our G4 PLATINUM with Share, G5 Mobile and G6 systems to have their sensor glucose information remotely monitored by their family, friends or designated recipient, or follower, by wirelessly transmitting data from the user's smart phone to the cloud and then to the follower's mobile device. Up to five followers can remotely monitor a patient's glucose information and receive secondary alert notifications from almost anywhere with an Internet connection via each follower's mobile device.

While we believe the G4 PLATINUM, G5 Mobile and G6 systems offer these advantages, people with diabetes may not perceive the benefits of continuous glucose monitoring and may be unwilling to change their current treatment regimens. Furthermore, our G4 PLATINUM, G5 Mobile and G6 systems are only available by prescription in the United States and may not appeal to all types of people with diabetes. Many international jurisdictions do not require a prescription for the dispensing of a specific device to a patient, however, the device must have received necessary regulatory approvals (e.g., Australia, Singapore and Germany). In the United Kingdom, CGMs and most related supplies are issued pursuant to a prescription; however, prescriptions are free for residents of England, Scotland, Wales and Northern Ireland under the National Health System. The G4 PLATINUM and G5 Mobile systems prompt the user to replace the sensor no later than the seventh day, and the G6 prompts the user to replace the sensor no later than the tenth day; although we are aware of reports from the field that some individuals have been able to use sensors for longer periods. People with diabetes could find this process to be uncomfortable or inconvenient, and may be unwilling to insert a disposable sensor in their body, especially if their current diabetes management involves no more than two finger sticks per day.

The G4 PLATINUM is not indicated as a replacement device for single-point finger stick devices in the United States, must be calibrated initially using measurements from two single-point finger stick tests and thereafter at least every 12 hours using single-point finger stick tests, and may be more costly to use than other glucose measurement devices. In the United States, Canada and the countries and regions outside of the United States that recognize the CE Mark, our G5 Mobile system no longer requires confirmatory finger sticks when making treatment decisions although it does require two single-point finger stick tests each day for calibration. In the United States, Canada and the countries and regions outside of the United States that recognize the CE Mark, our G6 does not require confirmatory finger sticks when making treatment decisions or finger stick tests each day for calibration, although it does require finger stick tests when symptoms do not match readings and when readings are unavailable.

Our Strategy

Our objective is to become the leading provider of continuous glucose monitoring systems and related products to enable people with diabetes to more effectively and conveniently manage their disease. We are also developing and commercializing products that integrate our continuous glucose monitoring technologies into the insulin delivery systems or data platforms of our respective partners. In addition, we continue to pursue development partnerships with other insulin delivery companies, including automated insulin delivery systems. To achieve these objectives, we are focusing on the following business strategies:

- Establish and maintain our technology platform as the leading approach to continuous glucose monitoring and leverage our development expertise to rapidly bring products to market, including for expanded indications.
- Drive the adoption of our ambulatory products through a direct sales and marketing effort, as well as key distribution arrangements.
- Drive additional adoption through technology integration partnerships such as our current partnerships with Eli Lilly, Insulet, Novo Nordisk, Tandem Diabetes and others.
- Seek broad coverage policies and reimbursement for our products from private third-party payors and national health systems.
- Drive increased utilization and adoption of our products through a cloud-based data repository platform that enables people with diabetes to aggregate and analyze data from numerous diabetes devices and share the data with their healthcare providers.
- Expand the use of our products to other patient care settings and patient demographics, including the hospital, people with Type 2 diabetes and people with gestational diabetes.
- Provide a high level of customer support, service and education.
- Pursue the highest safety and quality levels for our products.

Our Technology Platform

We believe we have a broad technology platform that will support the development of multiple products for continuous glucose monitoring.

Sensor Technology

The key enabling technologies for our sensors include biomaterials, membrane systems, electrochemistry and low power microelectronics. Our membrane technology consists of multiple polymer layers configured to selectively allow the appropriate mix of glucose and oxygen to travel through the membrane and react with a glucose specific enzyme to create an extremely low electrical signal, measured in pico-amperes. This electrical signal is then translated into glucose values. We believe that the capability to measure very low levels of an electrical signal and to accurately translate those measurements into glucose values is also a unique and distinguishing feature of our technology. We have also developed technology to allow sensitive electronics to be packaged in a small, fully contained, lightweight sealed unit that minimizes inconvenience and discomfort for the user.

Receiver and Transmitter Technology

G4 PLATINUM uses proprietary radiofrequency, and G5 Mobile and G6 use Bluetooth, to wirelessly transmit information from the transmitter, which sits in a pod atop the sensor, to our receiver or to a compatible mobile device. We have developed technology for reliable transmission and reception and have consistently demonstrated a high rate of successful transmissions from transmitter to receiver or compatible mobile device in our clinical trials. Our receiver or the mobile device, via our G5 Mobile and G6 apps, then displays both real-time and trended glucose values, and provides alerts and alarms. We have used our extensive database of continuous glucose data to create and refine software, algorithms and other technology for the display of data to customers.

Products in Development

We have gained our technology expertise by learning to design implants that can withstand the rigors of functioning within the human body for extended periods of time, as well as other issues such as device sealing, miniaturization, durability and sensor geometry.

We are leveraging this technology platform to enhance the capabilities of our current products (including obtaining expanded indications of use) and to develop additional continuous glucose monitoring products. We plan to develop

future generations of technologies focused on improved performance and convenience and that will enable intelligent insulin administration. Over the longer term, we plan to continue to develop and improve networked platforms with open architecture, connectivity and transmitters capable of communicating with other devices.

We also continue to pursue and support development partnerships with insulin pump companies and companies or institutions developing insulin delivery systems, including automated insulin delivery systems.

In the future, we intend to seek additional indications for our continuous glucose monitoring technology, including gestational diabetes and hospital monitoring. Eventually, we may apply our technological expertise to products beyond glucose monitoring.

Disposable Sensor and Reusable Transmitter

Our sensor includes a tiny wire-like electrode coated with our sensing membrane system. This disposable sensor comes packaged with an integrated insertion device and is contained in a small plastic housing platform, or pod. The base of the pod has adhesive that attaches it to the skin. The sensor is intended to be easily and reliably inserted by the user by exposing the adhesive, placing the pod against the surface of the skin of the abdomen or upper buttocks for people ages 2-17, and pushing down on the insertion device. The insertion device first extends a narrow gauge needle containing the sensor into the subcutaneous tissue and then retracts the needle, leaving behind the sensor in the tissue and the pod adhered to the skin. The user then disposes of the insertion device and snaps the transmitter to the pod.

After a stabilization period with the G6, the user will begin receiving CGM data on his or her mobile device or dedicated receiver through the ten-day usage period. After a stabilization period with the G5 Mobile, the user is required to calibrate the sensor with two measurements from a single-point finger stick device and the disposable sensor begins wirelessly transmitting the continuous glucose data at specific intervals to the handheld receiver or compatible mobile device. Users are prompted by the receiver or mobile app, if using the G5 Mobile, to calibrate the system twice per day with finger stick measurements throughout the use period to ensure reliable operation. Calibration may be accomplished by using any FDA cleared blood glucose meter. Currently, the G4 PLATINUM system is indicated for use as an adjunctive device to complement, not replace, information obtained from standard home blood glucose monitoring devices. Our G6 and G5 Mobile systems both have labeling from the FDA and CE Mark permitting their use as a replacement for finger sticks for making therapeutic adjustments, although the G5 Mobile still requires twice daily finger stick calibrations.

The disposable sensor contained in the G6 system is intended to function for up to ten days and the G5 Mobile and G4 PLATINUM systems are intended to function for up to seven days, after which the sensor should be replaced. To replace a sensor, the user simply removes the pod and attached sensor from the skin and discards them while retaining the reusable transmitter. A new sensor and pod can then be inserted and used with the same receiver and transmitter for a subsequent use period. We are aware of reports from the field, however, that customers have been able to use the G6 and the G5 Mobile and G4 PLATINUM sensors for periods longer than ten or seven days, respectively.

Handheld Receiver

Our small handheld receiver is carried by the user and wirelessly receives continuous glucose values from the transmitter. Proprietary algorithms and software, developed from our extensive database of continuous glucose data from clinical trials, are programmed into the G4 PLATINUM receiver to process the glucose data from the sensor and display it on a user-friendly graphical user interface. For G5 Mobile and G6, the algorithm resides on the transmitter, which then sends the processed glucose data to the receiver. With a push of a button, the user can access their current glucose value and one-, three-, six-, twelve- and twenty-four-hour trended data. Additionally, when glucose values are inappropriately high or low, the receiver provides an audible alert or vibrates. The receiver is a self-contained, durable unit with a rechargeable battery.

Compatible Mobile Devices

With our G5 Mobile and G6 systems, the functionalities of our proprietary receiver can be obtained through the use of a compatible mobile device, such as an iOS or Android device, and our mobile applications, depending on the patient's geographic location. A receiver may be required as the primary display device or a backup to the mobile device in some jurisdictions, including the United States.

Sales and Marketing

We have built a direct sales organization to call on endocrinologists, physicians and diabetes educators who can educate and influence patient adoption of continuous glucose monitoring. We believe that focusing efforts on these participants is important given the instrumental role they each play in the decision-making process for diabetes therapy.

We believe that referrals by endocrinologists, physicians and diabetes educators, together with self-referrals by customers, have driven and will continue to drive adoption of our G4 PLATINUM, G5 Mobile and G6 systems. We directly market our products in the United States, the United Kingdom, Germany, Ireland, Austria, Switzerland and Canada primarily to endocrinologists, physicians and diabetes educators. Although the number of diabetes patients is significant, the number of physicians and educators influencing these patients is relatively small. As of 2018, we estimate there were approximately 6,500 clinical endocrinologists who treat diabetes in the United States. As a result, we believe our direct, highly specialized and focused sales organization is sufficient for us to support our sales efforts for the foreseeable future.

We also are increasing our direct to consumer marketing efforts to increase awareness of our CGM systems and drive new patient leads to our website. We target people with Type 1 and insulin intensive Type 2 diabetes. We advertise on television, in print, digital and video media, CRM, offer sponsorships, host or participate in diabetes related events, conduct public relations and maintain a brand ambassador program. Our campaigns target people with diabetes.

We use a variety of marketing tools to drive adoption, ensure continued usage and establish brand loyalty for our continuous glucose monitoring systems by:

- creating awareness of the benefits of continuous glucose monitoring and the advantages of our technology with endocrinologists, physicians, diabetes educators and people with diabetes;
- providing strong and simple educational and training programs to healthcare providers and people with diabetes to ensure easy, safe and effective use of our systems; and
- maintaining a readily accessible telephone and web-based technical and customer support infrastructure, which includes clinicians, diabetes educators and reimbursement specialists, to help referring physicians, diabetes educators and people with diabetes as necessary.

Our sales organization competes with the experienced and well-funded marketing and sales operations of our competitors. We have relatively limited experience developing and managing a direct sales organization and we may be unsuccessful in our attempt to manage and expand the sales force. Developing a direct sales organization is a difficult, expensive and time-consuming process. To be successful we must:

- recruit and retain adequate numbers of effective sales personnel;
- effectively train our sales personnel in the benefits of our products;
- establish and maintain successful sales, marketing, training and education programs to educate endocrinologists, physicians, diabetes educators and patients about our products;
- manage geographically disbursed operations; and
- effectively train our sales personnel on the applicable fraud and abuse laws that govern interactions with healthcare practitioners as well as current and prospective patients and maintain active oversight and auditing measures to ensure continued compliance.

Competition

The market for blood glucose monitoring devices is intensely competitive, subject to rapid change and significantly affected by new product introductions and other market activities of industry participants. In selling the G4 PLATINUM, G5 Mobile and G6 systems, we compete directly with Medtronic plc's Diabetes Group; Roche Diabetes Care, a division of Roche Diagnostics; privately-held LifeScan, Inc.; the Diabetes Care division of Abbott Laboratories; and Ascensia Diabetes Care, each of which manufactures and markets products for the single-point finger stick device market. Collectively, these companies currently account for the majority of the worldwide sales of self-monitored glucose testing systems.

Several companies are developing or commercializing products for continuous or periodic monitoring of glucose levels in the interstitial fluid under the skin that compete directly with our products. Medtronic plc's Diabetes Group markets and sells a standalone glucose monitoring product called Guardian Connect, which has launched both internationally and in the United States after receiving FDA approval in 2018. In 2015, Abbott Diabetes Care, Inc. launched a consumer flash glucose monitoring system, FreeStyle Libre outside the United States. Abbott first received FDA approval for a professional-use version of this system in September 2016 for use in the United States, referred to as the Pro Flash, for which readings are only made available to the patient through consultation with their healthcare provider. Abbott first received FDA approval for the consumer version of this system, referred to as Flash, in September 2017 for use in the United States.

Medtronic and other third parties have developed or are developing, insulin pumps integrated with continuous glucose monitoring systems that provide, among other things, the ability to suspend insulin administration while the

user's glucose levels are low and to automate basal or bolus insulin dosing. Medtronic launched its 670G insulin delivery system in 2017.

Many of our competitors are either publicly traded or are divisions of publicly traded companies, and they enjoy several competitive advantages over us. See Risk Factors, "*We operate in a highly competitive market and face competition from large, well-established medical device manufacturers with significant resources, and, as a result, we may not be able to compete effectively.*"

As a result, we may be unable to compete effectively against these companies or their products. We believe that the principal competitive factors in our market include:

- safe, reliable and high-quality performance of products;
- cost of products and eligibility for reimbursement;
- comfort and ease of use of products;
- effective sales, marketing and distribution networks;
- brand awareness and strong acceptance by healthcare professionals and people with diabetes;
- customer service and support and comprehensive education for people with diabetes and diabetes care providers;
- speed of product innovation and time to market;
- regulatory expertise; and
- technological leadership and superiority.

Manufacturing

We currently manufacture our products at our headquarters in San Diego, California and at our manufacturing facility in Mesa, Arizona. As of December 31, 2018, our headquarters facilities had approximately 31,000 square feet of laboratory space and approximately 28,000 square feet of controlled environment rooms. Our Mesa, Arizona facility has approximately 14,000 square feet of laboratory space and approximately 19,000 square feet of controlled environment rooms. There are technical challenges to increasing manufacturing capacity, including FDA qualification of new manufacturing facilities, equipment design and automation, material procurement, problems with production yields, and quality control and assurance. We have focused significant effort on continual improvement programs in our manufacturing operations intended to improve quality, yields and throughput. We have made progress in manufacturing to enable us to supply adequate amounts of product to support our commercialization efforts, however we cannot guarantee that supply will not be constrained going forward. Additionally, the production of our continuous glucose monitoring systems must occur in a highly controlled and clean environment to minimize particles and other yield- and quality-limiting contaminants. Developing and maintaining commercial-scale manufacturing facilities has and will continue to require the investment of substantial additional funds and the hiring and retaining of additional management, quality assurance, quality control and technical personnel who have the necessary manufacturing experience.

We manufacture our G4 PLATINUM, G5 Mobile and G6 systems with certain components supplied by outside vendors and other components that we manufacture internally. Key components that we manufacture internally include our wire-based sensors. The remaining components and assemblies are purchased from outside vendors. We then assemble, test, package and ship the finished systems, which may include a reusable transmitter, a receiver and disposable sensors.

We purchase certain components and materials used in manufacturing from single sources due to quality considerations, costs or constraints resulting from regulatory or other requirements. As of December 31, 2018, those single sources include suppliers of application-specific integrated circuits used in our transmitters, seals used for the applicator and certain polymers used to synthesize polymeric membranes for our sensors. In some cases, agreements with these and other suppliers can be terminated by either party upon short notice. We may not be able to quickly establish additional or replacement suppliers for our single-source components, especially after our products are commercialized, in part because of the FDA review process and because of the custom nature of the parts we designed. Any supply interruption from our vendors or failure to obtain alternate vendors for any of the components would limit our ability to manufacture our systems, and could have a material adverse effect on our business.

The advantages of the manufacturing facility in Mesa, Arizona include increasing our capacity to:

- avoid the constraints we anticipated in our headquarters facilities commencing in 2019-2020;
- geographically diversify our manufacturing base to mitigate the risks of having all of our manufacturing located in earthquake and fire-prone California; and

- help manage certain of our operating expenses by taking advantage of Arizona's lower costs and taxes relative to California.

Third-Party Reimbursement

As a medical device company, reimbursement from Medicare, Medicaid or other governmental healthcare programs or systems, and private third-party healthcare payors is an important element of our success. In January 2017, the Centers for Medicare and Medicaid, or CMS, established a classification of "Therapeutic Continuous Glucose Monitors" as durable medical equipment under Medicare Part B, subject to payment by Medicare under certain coverage conditions to be determined by CMS, by local Medicare Administrative Contractors or on a patient claim by claim basis. This is a decision we had pursued for many years and which was made possible by the FDA's decision in December 2016 to approve a non-adjunctive indication, or use, for our G5 Mobile system, as described further in the "Regulatory" section below. Similarly, in September 2016, Germany's Federal Joint Committee agreed to provide reimbursement for continuous glucose monitoring systems under certain conditions which we believe we meet.

Our G4 PLATINUM system is not classified as a Therapeutic CGM by CMS and thus remains ineligible for reimbursement within the Medicare-eligible population. Reimbursement of our G4 PLATINUM system, or any future system that does not meet the requirements for Therapeutic CGMs under Medicare Part B or the requirements of another governmental healthcare system, will be limited to those customers covered by third-party payors that have adopted coverage policies for continuous glucose monitoring devices that include our products.

As of December 31, 2018, the seven largest private third-party payors, in terms of the number of covered lives, have issued coverage policies for the category of continuous glucose monitoring devices. In addition, we have negotiated contracted rates with all seven of those third-party payors for the purchase of our G4 PLATINUM, G5 Mobile and G6 systems by their members. Many of these coverage policies reimburse for our products under durable medical equipment benefits, are restrictive in nature and require the patient to comply with extensive documentation and other requirements to demonstrate medical necessity under the policy. Customers who are insured by payors that do not offer coverage for our devices will have to bear the financial cost of the products. We currently employ in-house reimbursement expertise to assist customers in obtaining reimbursement from private third-party payors. We also maintain a field-based reimbursement team charged with calling on third-party private payors to obtain coverage decisions and contracts. We have had formal meetings and have increased our efforts to create and liberalize coverage policies with third-party payors, including obtaining reimbursement for our products under pharmacy benefits and for more people with diabetes.

Medicare, Medicaid, other governmental health programs, health maintenance organizations and other third-party payors are increasingly attempting to contain healthcare costs by limiting both coverage and the level of reimbursement of new medical devices, and, as a result, their coverage policies may be restrictive, or they may not cover or provide adequate payment for our products. In order to obtain reimbursement arrangements, we may have to agree to a net sales price lower than the net sales price we might charge in other sales channels. Our revenue may be limited by the continuing efforts of government and third-party payors to contain or reduce the costs of healthcare through various increasingly sophisticated means, such as requiring prospective reimbursement and second opinions, purchasing in a bundle, or redesigning benefits. Furthermore, we are unable to predict what effect the current or any future healthcare reform will have on our business, or the effect these matters will have on our customers. Our dependence on the commercial success of the G4 PLATINUM, G5 Mobile and G6 systems makes us particularly susceptible to any cost containment or reduction efforts. Accordingly, unless government and other third-party payors provide adequate coverage and reimbursement for the G4 PLATINUM, G5 Mobile and G6 systems, people without coverage who have diabetes may not use our products.

Medicare does not cover any items or services that are not "reasonable and necessary." Medicare covers the CGM system, which includes supplies necessary for the use of the device, under the Durable Medical Equipment, or DME, benefit category. In order to be covered under this benefit, one component of the CGM system must meet the criteria for a durable medical device. To date, the receiver satisfied this criteria.

In some foreign markets, pricing and profitability of medical devices are subject to government control. In the United States, we expect that there will continue to be federal and state proposals for similar controls. Also, the trends toward managed healthcare in the United States and proposed legislation intended to reduce the cost of government insurance programs could significantly influence the purchase of healthcare services and products and may result in lower prices for our products or the exclusion of our products from reimbursement programs.

Intellectual Property

Protection of our intellectual property is a strategic priority for our business. We rely on a combination of patents, copyrights, trademarks, tradenames, trade secrets, nondisclosure agreements and other measures to establish and protect our proprietary rights.

As of December 31, 2018, we had 449 issued U.S. patents in force, and numerous U.S. published patent applications pending. We believe it will take up to five years, and possibly longer, for our pending U.S. patent applications to result in issued patents. As of December 31, 2018, we had 47 granted European patents, and numerous European patent applications and published international applications pending under the Patent Cooperation Treaty. Our patents began expiring in 2017. We also have 31 registered U.S. trademarks, 46 registered European Community trademarks, and a number of registered trademarks and numerous pending trademark applications in the United States and outside the United States. In addition, we have entered into exclusive and non-exclusive licenses in the ordinary course of business relating to a wide array of technologies or other intellectual property rights or assets. Our Restated Collaboration Agreement with Verily provides us with an exclusive license to use intellectual property of Verily resulting from the collaboration, and certain Verily patents in the development, manufacture and commercialization of blood-based or interstitial glucose monitoring products more generally (subject to certain exclusions, which are outside the CGM field as it is commonly understood). It also provides us with non-exclusive license rights under Verily's other intellectual property rights to develop, manufacture and commercialize those kinds of glucose monitoring products and certain CGM-product companion software functionalities.

Our patents and patent applications seek to protect aspects of our core membrane and sensor technologies, and our product concepts for continuous glucose monitoring. We believe that our patent position provides us with sufficient rights to protect our current and proposed commercial products. However, our patent applications may not result in issued patents, and any patents that have been issued or might be issued may not protect our intellectual property rights. Furthermore, we operate in an industry characterized by extensive patent litigation, and our patents may not be upheld if challenged. Any patents issued to us may be challenged by third parties as being invalid or unenforceable, and patent litigation may result in significant damage awards and injunctions that could prevent the manufacture and sale of affected products or result in significant royalty payments in order to continue selling the products. Third parties may also independently develop similar or competing technology that avoids our patents. The steps we have taken may not prevent the misappropriation of our intellectual property, particularly in foreign countries where the laws may not protect our proprietary rights as fully as in the United States. We also face risks associated with intellectual property infringement. See Risk Factors, "*We are subject to claims of infringement or misappropriation of the intellectual property rights of others, which could prohibit us from shipping affected products, require us to obtain licenses from third parties or to develop non-infringing alternatives, and subject us to substantial monetary damages and injunctive relief. We may also be subject to other claims or suits."* and "*Our inability to adequately protect our intellectual property could allow our competitors and others to produce products based on our technology, which could substantially impair our ability to compete*."

We also rely on trade secrets, technical know-how and continuing innovation to develop and maintain our competitive position. We seek to protect our proprietary information and other intellectual property by generally requiring our employees, consultants, contractors, outside scientific collaborators and other advisors to execute non-disclosure and assignment of invention agreements on commencement of their employment or engagement. Agreements with our employees also forbid them from bringing the proprietary rights of third parties to us. We also generally require confidentiality or material transfer agreements from third parties that receive our confidential data or materials. We cannot guarantee that employees and third parties will abide by the confidentiality or assignment terms of these agreements. Despite measures taken to protect our intellectual property, unauthorized parties might copy aspects of our products or obtain and use information that we regard as proprietary.

Government Regulation

The medical devices that we manufacture are subject to regulation by numerous regulatory bodies, including the U.S. FDA and comparable international regulatory agencies. These agencies require manufacturers of medical devices to comply with applicable laws and regulations governing the development, testing, manufacturing, labeling, marketing and distribution of medical devices. Devices are generally subject to varying levels of regulatory control, the most comprehensive of which requires that a clinical evaluation program be conducted before a device receives approval for commercial distribution. In addition, healthcare regulatory bodies in the United States and around the world impose a range of requirements related to the payment for medical devices and the procedures in which they are used, including laws intended to prevent fraud, waste, and abuse of healthcare dollars.

U.S. Laws and Regulations

At the U.S. federal level, our products are medical devices subject to extensive and ongoing regulation by the FDA. The U.S. Federal Food, Drug and Cosmetic Act, referred to as the FDCA, and the FDA's implementing regulations govern product design and development, pre-clinical and clinical testing, pre-market clearance, authorization or approval, establishment registration and product listing, product manufacturing, product labeling, product storage, advertising and promotion, product sales, distribution, recalls and field actions, servicing and post-market clinical surveillance. A number of U.S. states also impose licensing and compliance regimes on companies that manufacture or distribute prescription devices in the state.

In addition, the delivery of our devices in the U.S market is subject to regulation by the U.S. Department of Health and Human Services and comparable state agencies responsible for reimbursement and regulation of payment for health care items and services. U.S. laws and regulations are imposed primarily in connection with the Medicare and Medicaid programs, as well as the government's interest in regulating the quality and cost of health care.

FDA Regulation

Unless an exemption applies, each medical device we wish to commercially distribute in the United States will require either prior 510(k) clearance, prior *de novo* down-classification and a related grant of marketing authorization, or prior approval from the FDA through the premarket approval, or PMA process. The FDA classifies medical devices into one of three classes. Devices requiring fewer controls because they are deemed to pose lower risk are placed in Class I or II. Class I devices are subject to general controls such as labeling, pre-market notification, and adherence to the FDA's manufacturing requirements, which are contained in the Quality System Regulation, or QSR. Class II devices are subject to special controls such as performance standards, post-market surveillance, FDA guidelines, or particularized labeling, as well as general controls. Some Class I and Class II devices are exempted by regulation from the pre-market notification (i.e., 510(k) clearance) requirement, and/or the requirement of compliance with substantially all of the QSR. As an example, the mobile applications that comprise the Share System were classified by the FDA as Class II exempt. With the mobile applications classified as Class II exempt, we must comply with certain general and special controls required by the FDA but we do not need prior FDA review to commercialize changes to the mobile applications. Some devices are placed in Class III, which requires approval of a PMA application, if they are deemed by the FDA to pose the greatest risk, such as life-sustaining, life-supporting or certain implantable devices, or to be "not substantially equivalent" either to a previously 510(k) cleared device or to a "preamendment" Class III device in commercial distribution before May 28, 1976 for which PMA applications have not been required.

If a previously unclassified new medical device does not qualify for the 510(k) pre-market notification process because no predicate device to which it is substantially equivalent can be identified, the device is automatically classified into Class III. The Food and Drug Administration Modernization Act of 1997 established a new route to market for low to moderate risk medical devices that are automatically placed into Class III due to the absence of a predicate device, called the "Request for Evaluation of Automatic Class III Designation," or the *de novo* classification procedure. This procedure allows a manufacturer whose novel device is automatically classified into Class III to request down-classification of its medical device into Class I or Class II on the basis that the device presents low or moderate risk, rather than requiring the submission and approval of a PMA. Prior to the enactment of the Food and Drug Administration Safety and Innovation Act, or FDASIA, in July 2012, a medical device could only be eligible for *de novo* classification if the manufacturer first submitted a 510(k) pre-market notification and received a determination from the FDA that the device was not substantially equivalent. FDASIA streamlined the *de novo* classification pathway by permitting (under Section 513(f)(2) of the FDCA) manufacturers to request *de novo* classification directly without first submitting a 510(k) pre-market notification to the FDA and receiving a not substantially equivalent determination. FDASIA sets a review time for FDA of 120 days following receipt of the *de novo* application, but FDA does not always meet this timeline and has publicly only committed to a review goal of 150 days for 50% of applications. If the manufacturer seeks reclassification into Class II, the manufacturer must include a draft proposal for special controls that are necessary to provide a reasonable assurance of the safety and effectiveness of the medical device. The FDA may reject the reclassification petition if it identifies a legally marketed predicate device that would be appropriate for a 510(k) or determines that the device is not low to moderate risk or that general controls would be inadequate to control the risks and special controls cannot be developed. If the FDA agrees with the down-classification, the *de novo* applicant will then receive authorization to market the device, and a classification regulation will be established for the device type. The device can then be used as a predicate device for future 510(k) submissions by the manufacturer or a competitor. In December 2018, the FDA issued proposed regulations to govern the *de novo* classification process, which if finalized would further impact this path to market.

As an alternative to the *de novo* process, a company could also file a reclassification petition, or the FDA could initiate such a process, seeking to change the automatic Class III designation of a novel postamendment device under Section 513(f)(3) of the FDCA. The FDA issued a final rule (to take effect March 17, 2019) to clarify the process where

the FDA initiates such reclassification (issuance of a proposed reclassification order; optional panel consultation; and final reclassification order published in the Federal Register).

Our G4 PLATINUM and G5 Mobile systems (excluding associated Share System functionalities and mobile applications) have been classified as devices requiring PMA approval. A PMA application must be supported by valid scientific evidence, which typically requires extensive data, including technical, pre-clinical, clinical, manufacturing and labeling data, to demonstrate to the FDA's satisfaction the safety and efficacy of the device. A PMA application also must include a complete description of the device and its components, a detailed description of the methods, facilities and controls used to manufacture the device, and proposed labeling. After a PMA application is submitted and found to be sufficiently complete, the FDA begins an in-depth review of the submitted information. During this review period, the FDA may request additional information or clarification of information already provided. Also during the review period, an advisory panel of experts from outside the FDA may be convened to review and evaluate the application and provide recommendations to the FDA. In addition, the FDA generally will conduct a pre-approval inspection of the manufacturing facility to evaluate compliance with QSR, which requires manufacturers to implement and follow design, testing, control, documentation and other quality assurance procedures.

FDA review of a PMA application generally takes between one and three years, but may take significantly longer. The FDA can delay, limit or deny approval of a PMA application for many reasons, including:

- our systems may not be safe or effective to the FDA's satisfaction;
- the data from our pre-clinical studies and clinical trials may be insufficient to support approval;
- the manufacturing process or facilities we use may not meet applicable requirements; and
- changes in FDA approval policies or adoption of new regulations may require additional data.

If an FDA evaluation of a PMA application or manufacturing facilities is favorable, the FDA will either issue an approval letter, or approvable letter, which usually contains a number of conditions which must be met in order to secure final approval of the PMA. When and if those conditions have been fulfilled to the satisfaction of the FDA, the agency will issue a PMA approval letter authorizing commercial marketing of a device, subject to the conditions of approval and the limitations established in the approval letter. If the FDA's evaluation of a PMA application or manufacturing facilities is not favorable, the FDA will deny approval of the PMA or issue a not approvable letter. The FDA may also determine that additional trials are necessary, in which case the PMA approval may be delayed for several months or years while the trials are conducted and data is submitted in an amendment to the PMA. The PMA process can be expensive, uncertain and lengthy and a number of devices for which FDA approval has been sought by other companies have never been approved by the FDA for marketing.

New PMA applications or PMA supplements may be required for modifications to the manufacturing process, labeling, device specifications, materials or design of a device that is approved through the PMA process. PMA supplements often require submission of the same type of information as an initial PMA application, except that the supplement is limited to information needed to support any changes from the device covered by the approved PMA application and may or may not require as extensive clinical data or the convening of an advisory panel.

Clinical trials are almost always required to support a PMA application and are sometimes required for a 510(k) clearance. These trials generally require submission of an application for an investigational device exemption, or IDE to the FDA. The IDE application must be supported by appropriate data, such as animal and laboratory testing results, showing that it is safe to test the device in humans and that the testing protocol is scientifically sound. The IDE application must be approved in advance by the FDA for a specified number of patients, unless the product is deemed a non-significant risk device and eligible for abbreviated IDE requirements. Generally, clinical trials for a significant risk device may begin once the IDE application is approved by the FDA and the study protocol and informed consent are approved by appropriate institutional review boards at the clinical trial sites. The FDA's approval of an IDE allows clinical testing to go forward, but does not bind the FDA to accept the results of the trial as sufficient to prove the product's safety and efficacy, even if the trial meets its intended success criteria. All clinical trials must be conducted in accordance with the FDA's IDE regulations, which govern investigational device labeling, prohibit promotion, and specify an array of Good Clinical Practice requirements, which include among other things, recordkeeping, reporting and monitoring responsibilities of study sponsors and study investigators. Clinical trials must further comply with the FDA's regulations for institutional review board approval and for informed consent and other human subject protections. Required records and reports are subject to inspection by the FDA. The results of clinical testing may be unfavorable or, even if the intended safety and efficacy success criteria are achieved, may not be considered sufficient for the FDA to grant approval or clearance of a product. The commencement or completion of any of our clinical trials may be delayed or halted, or be inadequate to support approval of a PMA application, for numerous reasons, including, but not limited to, the following:

- the FDA or other regulatory authorities do not approve a clinical trial protocol or a clinical trial, or place a clinical trial on hold;
- patients do not enroll in clinical trials at the rate we expect;
- patients do not comply with trial protocols;
- patient follow-up is not at the rate we expect;
- patients experience adverse side effects;
- patients die during a clinical trial, even though their death may not be related to our products;
- institutional review boards and third-party clinical investigators may delay or reject our trial protocol;
- third-party clinical investigators decline to participate in a trial or do not perform a trial on our anticipated schedule or consistent with the clinical trial protocol, good clinical practices or other FDA requirements;
- DexCom or third-party organizations do not perform data collection, monitoring and analysis in a timely or accurate manner or consistent with the clinical trial protocol or investigational or statistical plans;
- third-party clinical investigators have significant financial interests related to DexCom or the study that the FDA deems to make the study results unreliable, or DexCom or investigators fail to disclose such interests;
- regulatory inspections of our clinical trials or manufacturing facilities, which may, among other things, require us to undertake corrective action or suspend or terminate our clinical trials;
- changes in governmental regulations or administrative actions applicable to our trial protocols;
- the interim or final results of the clinical trial are inconclusive or unfavorable as to safety or effectiveness; and
- the FDA concludes that the results from our trial and/or trial design are inadequate to demonstrate safety and effectiveness of the product.

In November 2011, we received 510(k) clearance from the FDA to market to clinics a data management service, which helps healthcare providers and patients see, understand and use blood glucose meter data to diagnose and manage diabetes. In 2014, we submitted a request to the FDA via the *de novo* process and the FDA agreed that our data management services with CGM data is classified as Class I.

Our data transfer service allows researchers to control the transfer of data from certain diabetes devices to research tools and databases according to their own research workflows.

The infrastructure of the data management service is considered "medical device data systems," or MDDS, and does not require 510(k) clearance. MDDS are hardware or software products that transfer, store, convert formats, and display medical device data. An MDDS does not modify the data or modify the display of the data, and it does not by itself control the functions or parameters of any other medical device. MDDS are not intended to be used for active patient monitoring. On February 15, 2011, the FDA issued a regulation down-classifying MDDS from Class III (high-risk) to Class I (low-risk). Since down-classifying MDDS, the FDA gained additional experience with these types of technologies, and determined that these devices pose a low risk to the public. Therefore, the FDA stated in 2014 guidance that it did not intend to enforce compliance with the regulatory controls that apply to MDDS devices, including registration and listing, premarket review, postmarket reporting, and QSR for manufacturers of these types of devices. In 2016, the 21st Century Cures Act amended the Food, Drug, and Cosmetic Act's definition of "device" to exclude certain software functions, thus products meeting the definition of MDDS are no longer considered devices and thus are not subject to FDA regulatory requirements.

Additional functions of, or intended uses for, our software platform may require us to obtain either 510(k) clearance or PMA approval from the FDA. To obtain 510(k) clearance, we must submit a pre-market notification demonstrating that the software system is substantially equivalent to a previously cleared 510(k) device or a pre-amendment device that was in commercial distribution before May 28, 1976 for which the FDA has not yet called for the submission of a PMA application. The FDA's 510(k) clearance pathway generally takes from three to twelve months from the date the application is completed, but can take significantly longer. After a medical device receives 510(k) clearance, any modification that could significantly affect its safety or effectiveness, or that would constitute a significant change in its intended use, requires a new 510(k) clearance.

In March 2018 we obtained marketing authorization for the Dexcom G6 integrated continuous glucose monitoring (iCGM) system for determining glucose (sugar) levels in children aged two and older and adults with diabetes, via the *de novo* process.

After a device is authorized for marketing and placed in commercial distribution, numerous regulatory requirements apply. These include:

- establishment registration and device listing;
- QSR, which requires manufacturers to follow design, testing, control, storage, supplier/contractor selection, complaint handling, documentation and other quality assurance procedures;
- labeling regulations, which prohibit the promotion of products for unapproved or off-label uses or indications and impose other restrictions on labeling, advertising and promotion;
- medical device reporting regulations, which require that manufacturers report to the FDA if a device may have caused or contributed to a death or serious injury or malfunctioned in a way that would likely cause or contribute to a death or serious injury if it were to recur;
- voluntary and mandatory device recalls to address problems when a device is defective and/or could be a risk to health; and
- corrections and removal reporting regulations, which require that manufacturers report to the FDA field corrections and product recalls or removals if undertaken to reduce a risk to health posed by the device or to remedy a violation of the FDCA that may present a risk to health.

Also, the FDA may require us to conduct post-market surveillance studies or order us to establish and maintain a system for tracking our products through the chain of distribution to the patient level. The FDA and the Food and Drug Branch of the California Department of Health Services enforce regulatory requirements by conducting periodic, unannounced inspections and market surveillance. Inspections may include the manufacturing facilities of our subcontractors.

Failure to comply with applicable regulatory requirements, including those applicable to the conduct of our clinical trials, can result in enforcement action by the FDA, which may lead to any of the following sanctions:

- warning letters or untitled letters that require corrective action;
- fines and civil penalties;
- unanticipated expenditures;
- delays in approving or refusal to approve our future continuous glucose monitoring systems or other products;
- FDA refusal to issue certificates to foreign governments needed to export our products for sale in other countries;
- suspension or withdrawal of FDA approval;
- product recall or seizure;
- interruption of production;
- operating restrictions;
- injunctions; and
- criminal prosecution.

We and our contract manufacturers, specification developers, and some suppliers of components or device accessories, are also required to manufacture our products in compliance with current Good Manufacturing Practice requirements set forth in the QSR. The QSR requires a quality system for the design, manufacture, packaging, labeling, storage, installation and servicing of marketed devices, and includes extensive requirements with respect to quality management and organization, device design, buildings, equipment, purchase and handling of components or services, production and process controls, packaging and labeling controls, device evaluation, distribution, installation, complaint handling, servicing, and record keeping. The FDA evaluates compliance with the QSR through periodic unannounced inspections that may include the manufacturing facilities of our subcontractors. If the FDA believes we or any of our contract manufacturers or regulated suppliers are not in compliance with these requirements, it can shut down our manufacturing operations, require recall of our products, refuse to approve new marketing applications, institute legal proceedings to detain or seize products, enjoin future violations, or assess civil and criminal penalties against us or our officers or other employees. Any such action by the FDA would have a material adverse effect on our business. We may be unable to comply with all applicable FDA regulations.

U.S. Fraud and Abuse Laws and Other Compliance Requirements

The healthcare industry is subject to various U.S. federal and state laws pertaining to healthcare fraud and abuse. Violations of these laws are punishable by criminal and civil sanctions, including, in some instances, exclusion from participation in U.S. federal and state healthcare programs, including Medicare and Medicaid.

Anti-kickback Laws. The federal Anti-Kickback Statute prohibits persons from knowingly and willfully soliciting, receiving, offering or providing remuneration directly or indirectly to induce either the referral of an individual, or the furnishing, recommending, or arranging of a good or service, for which payment may be made under a federal healthcare program such as Medicare and Medicaid. The definition of "remuneration" has been broadly interpreted to include anything of value, including such items as gifts, discounts, the furnishing of supplies or equipment, credit arrangements, waiver of payments, and providing anything at less than its fair market value. The Department of Health and Human Services, or HHS has issued regulations, commonly known as safe harbors, that set forth certain provisions which, if fully met, will assure healthcare providers and other parties that they will not be prosecuted under the federal Anti-Kickback Statute. The failure of a transaction or arrangement to fit precisely within one or more safe harbors does not necessarily mean that it is illegal or that prosecution will be pursued. However, conduct and business arrangements that do not fully satisfy each applicable safe harbor may result in increased scrutiny by government enforcement authorities such as the HHS Office of Inspector General.

The penalties for violating the federal Anti-Kickback Statute include imprisonment for up to ten years, fines of up to $100,000 per violation and possible exclusion from federal healthcare programs such as Medicare and Medicaid. Many states have adopted prohibitions similar to the federal Anti-Kickback Statute, some of which apply to the referral of patients for healthcare services reimbursed by any source, not only by the Medicare and Medicaid programs.

Federal False Claims Act. The federal False Claims Act prohibits knowingly presenting, or causing to be presented a false claim or the knowing use of false statements or records to obtain payment from the federal government. When an entity is determined to have violated the False Claims Act, it must pay three times the actual damages sustained by the government, plus mandatory civil penalties of between $11,181 and $22,363 for each separate false claim. Suits filed under the False Claims Act, known as "qui tam" actions, can be brought by any individual on behalf of the government and such individuals (known as "relators" or, more commonly, as "whistleblowers") may share in any amounts paid by the entity to the government in fines or settlement. In addition, certain states have enacted laws modeled after the federal False Claims Act. Qui tam actions have increased significantly in recent years, causing greater numbers of healthcare companies to have to defend a false claim action, pay fines or be excluded from Medicare, Medicaid or other federal or state healthcare programs as a result of an investigation arising out of such action. Federal enforcement agencies also have showed increased interest in pharmaceutical companies' product and patient assistance programs, including reimbursement and co-pay support services, and a number of investigations into these programs have resulted in significant civil and criminal settlements. In addition, the Affordable Care Act amended federal law to provide that the government may assert that a claim including items or services resulting from a violation of the federal anti-kickback statute constitutes a false or fraudulent claim for purposes of the federal civil False Claims Act. Criminal prosecution is possible for knowingly making or presenting a false or fictitious or fraudulent claim to the federal government.

Federal Physician Self-Referral Law (Stark Law). The Stark Law prohibits a physician (or an immediate family member of a physician) who has a financial relationship with an entity from referring patients to that entity for certain designated health services ("DHS"), including durable medical equipment such as the CGM receiver and supplies, payable by Medicare, unless an exception applies. The Stark Law also prohibits such an entity from presenting or causing to be presented a claim to the Medicare program for DHS provided pursuant to a prohibited referral, and provides that certain collections related to any such claims must be refunded in a timely manner. Because we bill Medicare for DME and related supplies, the company's financial relationships with referring physicians are governed by the Stark Law. Exceptions to the Stark Law include, among other things, exceptions for certain financial relationships, including both ownership and compensation arrangements. The Stark Law is a strict liability statute, therefore, to the extent that the statute is implicated and an exception does not apply, the statute is violated. In addition to the Stark Law, many states have implemented similar physician self-referral prohibitions that may extend to Medicaid, third party payors, and self-pay.

HIPAA and Other Privacy Laws and Regulations. The Health Insurance Portability and Accountability Act of 1996, as amended by the American Recovery and Reinvestment Act of 2009, and implementing regulations, or HIPAA, created two new federal crimes: healthcare fraud and false statements relating to healthcare matters. The healthcare fraud statute prohibits knowingly and willfully executing a scheme to defraud any healthcare benefit program, including private payors. A violation of this statute is a felony and may result in fines, imprisonment or exclusion from government sponsored programs. The false statements statute prohibits knowingly and willfully falsifying, concealing or covering up a material fact or making any materially false, fictitious or fraudulent statement in connection with the delivery of or

payment for healthcare benefits, items or services. A violation of this statute is a felony and may result in fines or imprisonment.

HIPAA, as well as a number of other federal and state privacy-related laws, also extensively regulate the use and disclosure of individually identifiable health information, known as "protected health information," and require covered entities, including health plans and most health care providers, to implement administrative, physical and technical safeguards to protect the security of such information. Certain provisions of the security and privacy regulations apply to business associates (entities that handle protected health information on behalf of covered entities), and business associates are subject to direct liability for violation of these provisions. In addition, a covered entity may be subject to criminal and civil penalties as a result of a business associate violating HIPAA, if the business associate is found to be an agent of the covered entity. The HIPAA privacy regulations and security regulations impose and will continue to impose significant costs on us in order to comply with these standards.

In addition, certain states have proposed or enacted legislation that will create new data privacy and security obligations for certain entities, such as the California Consumer Privacy Act that was recently enacted and goes into effect January 1, 2020.

FCPA and Other Anti-Bribery and Anti-Corruption Laws. Additionally, the U.S. Foreign Corrupt Practices Act, or FCPA, prohibits U.S. corporations and their representatives from offering, promising, authorizing or making payments to any foreign government official, government staff member, political party or political candidate in an attempt to obtain or retain business abroad. The scope of the FCPA would include interactions with certain healthcare professionals in many countries. Our present and future business has been and will continue to be subject to various other U.S. and foreign laws, rules and/or regulations.

Sunshine Act. Pursuant to the Patient Protection and Affordable Care Act that was signed into law in March 2010, the federal government enacted the Physician Payment Sunshine Act. As a manufacturer of U.S. FDA-regulated devices reimbursable by federal healthcare programs, we are subject to this law, which requires us to track and annually report certain payments and other transfers of value we make to U.S.-licensed physicians or U.S. teaching hospitals. We are also required to report certain ownership interests held by physicians and their immediate family members. In 2018 the law was extended to require tracking and reporting of transfers of value to physician assistants, nurse practitioners, and other mid-level practitioners. Reporting requirements will go into effect in 2022 for payments and transfers of value made to these additional practitioner-types in 2021. CMS has the potential to impose penalties of up to $1.15 million per year for violations of the Physician Payment Sunshine Act, depending on the circumstances, and payments reported also have the potential to draw scrutiny on payments to and relationships with physicians, which may have implications under the Anti-Kickback Statute and other healthcare laws.

International Regulation

International sales of medical devices are subject to foreign government regulations, which may vary substantially from country to country. The time required to obtain approval in a foreign country may be longer or shorter than that required for FDA approval, and the requirements may differ. There is a trend towards harmonization of quality system standards among the European Union, United States, Canada and various other industrialized countries.

The primary regulatory body in Europe is that of the European Union, which includes most of the major countries in Europe. Other countries, such as Switzerland, have voluntarily adopted laws and regulations that mirror those of the European Union with respect to medical devices. The European Union has adopted numerous directives and standards regulating the design, manufacture, clinical trials, labeling and adverse event reporting for medical devices. Devices that comply with the requirements of a relevant directive will be entitled to bear the CE conformity marking, indicating that the device conforms to the essential requirements of the applicable directives and, accordingly, can be commercially distributed throughout Europe. The method of assessing conformity varies depending on the class of the product, but normally involves a combination of self-assessment by the manufacturer and a third-party assessment by a "Notified Body." This third-party assessment may consist of an audit of the manufacturer's quality system and specific testing of the manufacturer's product. An assessment by a Notified Body of one country within the European Union is required in order for a manufacturer to commercially distribute the product throughout the European Union. Outside of the European Union, regulatory approval needs to be sought on a country-by-country basis in order for us to market our products. The European Union regulatory bodies finalized a new Medical Device Regulation (MDR) in 2017, which replaced the existing Directives and provided three years for transition and compliance. The MDR will change several aspects of the existing regulatory framework. Other countries have adopted medical device regulatory regimes, such as the Classification Rules for Medical Devices published by the Hong Kong Department of Health, the Health Sciences Authority of Singapore regulation of medical devices under the Health Products Act, and Health Canada's risk classification system for invasive devices, among others. Each country may have its own processes and requirements for

medical device licensing, approval, and regulation, therefore requiring us to seek regulatory approvals on a country-by-country basis.

Outside the United States a range of anti-bribery and anti-corruption laws, as well and some industry-specific laws and codes of conduct, apply to the medical device industry and interactions with government officials and entities and healthcare professionals. Laws include the UK Bribery Act of 2010. Further, the EU member countries have emphasized a greater focus on healthcare fraud and abuse and have indicated greater attention to the industry by the European Anti-Fraud Office. MedTech Europe, the medical device industry association, also introduced the Code of Ethical Business Practices, which came into effect on January 1, 2017. Countries in Asia have also become more active in their enforcement of anti-bribery laws and with respect to procurement and supply chain fraud.

In the European Union, increasingly stringent data protection and privacy rules that have and will continue to have substantial impact on the use of patient data across the healthcare industry became effective in May 2018. The EU General Data Protection Regulation, or GDPR, applies across the European Union and includes, among other things, a requirement for prompt notice of data breaches to data subjects and supervisory authorities in certain circumstances and significant fines for non-compliance. The GDPR fine framework can be up to 20 million euros, or up to 4 % of the company's total global turnover of the preceding fiscal year, whichever is higher. The GDPR also requires companies processing personal data of individuals residing in the European Union to comply with EU privacy and data protection rules, even if the company itself does not have a physical presence in the European Union. Noncompliance could result in the imposition of fines, penalties, or orders to stop noncompliant activities. Due to the strong consumer protection aspects of the GDPR, companies subject to its purview are allocating substantial legal costs to the development of necessary policies and procedures and overall compliance efforts. We expect continued costs associated with maintaining compliance with GDPR into the future.

Environmental Regulation

Our research and development and clinical processes involve the handling of potentially harmful biological materials as well as hazardous materials. We are subject to federal, state and local laws and regulations governing the use, handling, storage and disposal of hazardous and biological materials and we incur expenses relating to compliance with these laws and regulations. If violations of environmental, health and safety laws occur, we could be held liable for damages, penalties and costs of remedial actions. These expenses or this liability could have a significant negative impact on our financial condition. We may violate environmental, health and safety laws in the future as a result of human error, equipment failure or other causes. Environmental laws could become more stringent over time, imposing greater compliance costs and increasing risks and penalties associated with violations. We are subject to potentially conflicting and changing regulatory agendas of political, business and environmental groups. Changes to or restrictions on permitting requirements or processes, hazardous or biological material storage or handling might require an unplanned capital investment or relocation. Failure to comply with new or existing laws or regulations could harm our business, financial condition and results of operations.

Advisory Boards and Consultants

We have relied upon the advice of experts in the development and commercialization of our products. Since 2005, we have used experts in various disciplines on a consulting basis as needed to solve problems or accelerate development pathways. We may continue to engage advisors from the academic, consultancy, governmental or other areas to assist us as necessary.

Employees

As of December 31, 2018, we had approximately 2,800 full-time employees and approximately 1,100 contract and temporary employees globally. None of our employees are represented by a labor union or covered by a collective bargaining agreement. We have never experienced any employment-related work stoppages and we consider our employee relations to be good.

Available Information

Our Internet website address is www.dexcom.com. We provide free access to various reports that we file with or furnish to the SEC through our website, as soon as reasonably practicable after they have been filed or furnished. These reports include, but are not limited to, our annual reports on Form 10-K, quarterly reports on Form 10-Q, current reports on Form 8-K, and any amendments to those reports. Our SEC reports can be accessed through the investor relations section of our website, or through www.sec.gov. Also available on our website are printable versions of our Audit Committee charter, Compensation Committee charter, Nominating and Corporate Governance Committee charter, and

Business Code of Conduct and Ethics. Information on our website does not constitute part of this Annual Report on Form 10-K or other report we file or furnish with the SEC. Stockholders may request copies of these documents from:

DexCom, Inc.
6340 Sequence Drive
San Diego, CA 92121
(858) 200-0200

ITEM 1A. RISK FACTORS

Our short and long-term success is subject to numerous risks and uncertainties, many of which involve factors that are difficult to predict or beyond our control. Before making a decision to invest in, hold or sell our common stock, stockholders and potential stockholders should carefully consider the risks and uncertainties described below, in addition to the other information contained in or incorporated by reference into this Annual Report on Form 10-K, as well as the other information we file with the Securities and Exchange Commission. If any of the following risks are realized, our business, financial condition, results of operations and prospects could be materially and adversely affected. In that case, the value of our common stock could decline and stockholders may lose all or part of their investment. Furthermore, additional risks and uncertainties of which we are currently unaware, or which we currently consider to be immaterial, could have a material adverse effect on our business, financial condition or results of operations. Refer to our disclaimer regarding forward-looking statements at the beginning of our Management's Discussion and Analysis of Financial Condition and Results of Operations.

Risks Related to Our Business

We have incurred losses since inception and anticipate that we will incur continued losses in the future.

We have incurred operating losses in each year since our inception in May 1999, including an operating loss of $186.3 million for the twelve months ended December 31, 2018. As of December 31, 2018, we had an accumulated deficit of $798.9 million. We have financed our operations primarily through private and public offerings of equity securities and debt and the sales of our products. We have devoted substantial resources to:

- research and development relating to our continuous glucose monitoring systems;
- sales and marketing and manufacturing expenses associated with the commercialization of our G4 PLATINUM, G5 Mobile and G6 systems; and
- expansion of our workforce.

We expect our research and development expenses to increase in connection with our clinical trials and other development activities related to our products, including our next-generation sensors, transmitters and sensor-augmented insulin pumps, as well as other collaborations. We also expect that our general and administrative expenses will continue to increase due to the additional operational and regulatory burdens applicable to public healthcare and medical device companies. As a result, it is likely we will continue to incur operating losses in the future. These losses, among other things, have had and will continue to have an adverse effect on our stockholders' equity.

If, in the future, we are unable to continue the development of an adequate sales and marketing organization, or if our direct sales organization is not successful, we may have difficulty achieving market awareness and selling our products.

To achieve commercial success for the G4 PLATINUM, G5 Mobile and G6 systems and any of our future products, we must either continue to develop and grow our sales and marketing organization and enter into partnerships or other arrangements to market and sell our products or collaborate with third parties to market and sell our products. Developing and managing a direct sales organization is a difficult, expensive and time-consuming process.

To be successful we must:

- recruit and retain adequate numbers of effective and experienced sales personnel;
- effectively train our sales personnel in the benefits and risks of our products;
- establish and maintain successful sales, marketing, training and education programs that educate endocrinologists, physicians and diabetes educators so they can appropriately inform their patients about our products;
- manage geographically dispersed sales and marketing operations; and
- effectively train our sales personnel on the applicable fraud and abuse laws that govern interactions with healthcare practitioners as well as current and prospective patients and maintain active oversight and auditing measures to ensure continued compliance.

We currently employ a direct sales force to sell and market our products in the United States, Canada and certain countries in Europe. Our direct sales force calls directly on healthcare providers and people with diabetes throughout the applicable country to initiate sales of our products. Our sales organization competes with the experienced, larger and well-funded marketing and sales operations of our competitors. We may not be able to successfully manage our dispersed sales force or increase our product sales at acceptable rates.

We have also entered into distribution arrangements to leverage existing distributors already engaged in the diabetes marketplace. Our United States distribution partnerships are focused on accessing underrepresented regions and, in some instances, third-party payors that contract exclusively with distributors. Our European and other international distribution partners call directly on healthcare providers and patients to market and sell our products in Australia, New Zealand, and portions of Europe, Asia, Latin America, the Middle East and Africa. Because of the competition for their services, we may be unable to partner with or retain additional qualified distributors. Further, we may not be able to enter into agreements with distributors on commercially reasonable terms, if at all. Our distributors might not have the resources to continue to support our recent rapid growth.

If we are unable to establish adequate sales, marketing and distribution capabilities or enter into and maintain arrangements with third parties to sell, market and distribute our products, our business may be harmed.

We have entered into distribution arrangements to leverage established distributors already engaged in the diabetes marketplace. Our distribution agreements with Byram and affiliates and Cardinal Health and affiliates (including Edgepark Medical Supplies), our two most significant distributors, generated approximately 12% and 15%, respectively, of our total revenue during the twelve months ended December 31, 2018. We cannot guarantee that these relationships will continue or that we will be able to maintain this volume of sales from these relationships in the future. A substantial decrease or loss of these sales could have a material adverse effect on our operating performance. To the extent that we enter into additional arrangements with third parties to perform sales, marketing, distribution and billing services in the United States, Europe or other countries, our product margins could be lower than if we directly marketed and sold our products. To the extent that we enter into co-promotion or other marketing and sales arrangements with other companies, any revenue received will depend on the skills and efforts of others, and we cannot predict whether these efforts will be successful. In addition, market acceptance of our products by physicians and people with diabetes in Europe or other countries will largely depend on our ability to demonstrate their relative safety, effectiveness, reliability, cost-effectiveness and ease of use. If we are unable to do so, we may not be able to generate product revenue from our sales efforts in Europe or other countries. Finally, if we are unable to establish and maintain adequate sales, marketing and distribution capabilities, independently or with others, we may not be able to generate adequate product revenue and may not become profitable.

Although many third-party payors have adopted some form of coverage policy on continuous glucose monitoring devices, our products do not yet have simple broad-based contractual coverage with most third-party payors and we frequently experience administrative challenges in obtaining reimbursement for our customers. If we are unable to obtain adequately broad reimbursement at acceptable prices for our products or any future products from third-party payors, we will be unable to generate significant revenue.

As a medical device company, reimbursement from government and/or commercial third-party healthcare payors, including Medicare and Medicaid, is an important element of our success. In January 2017, the Centers for Medicare & Medicaid Services, or CMS, established a classification of "Therapeutic Continuous Glucose Monitors" as durable medical equipment under Medicare Part B, subject to payment by Medicare under certain coverage conditions to be determined by CMS, by local Medicare Administrative Contractors or on a patient claim by claim basis. This is a decision we had pursued for many years and which was made possible by the FDA's decision in December 2016 to approve a non-adjunctive indication, or use, for our G5 Mobile system. In March 2017, CMS Medicare Administrative Contractors issued interim instructions for individual claim adjudication providing instructions and billing codes for the reimbursement of individual claims for therapeutic CGM reimbursement that apply to our G6 and G5 Mobile systems, and in May 2017, CMS Medicare Administrative Contractors issued a revision to an existing joint Local Coverage Determination, or LCD, which establishes the Medicare conditions of coverage for therapeutic CGM, including G5 Mobile and G6 systems.

Similarly, in September 2016, Germany's Federal Joint Committee agreed to provide reimbursement for continuous glucose monitoring systems under certain conditions, which we believe are met by our G4 PLATINUM, G5 Mobile and G6 systems.

A number of regulatory and commercial hurdles remain relating to wide-scale sales where a government or commercial third-party payors provide reimbursement, including sales to Medicare beneficiaries. If we are unable to successfully address these hurdles, reimbursement of our products may be limited to a smaller subset of people with diabetes covered by Medicare or to those people with diabetes covered by other third-party payors that have adopted policies for CGM devices allowing for coverage of these devices if certain conditions are met. Adverse coverage or reimbursement decisions relating to our products by CMS, its Medicare Administrative Contractors, other state or federal payors, and/or third-party commercial payors could significantly reduce reimbursement, which could have an impact on the acceptance of, and demand for, our products and the prices that our customers are willing to pay for them.

As of December 31, 2018, the seven largest private third-party payors, in terms of the number of covered lives, have issued coverage policies for the category of CGM devices. In addition, we have negotiated contracted rates with all seven of those third-party payors for the purchase of our G4 PLATINUM, G5 Mobile and G6 systems by their members. However,

people with diabetes without insurance that covers our products will have to bear the financial cost of them. In the United States, people with diabetes using existing single-point finger stick devices are generally reimbursed all or part of the product cost by Medicare or other third-party payors. The commercial success of our products in both domestic and international markets will substantially depend on whether timely and comprehensive third-party reimbursement is widely available for individuals that use them. While many third-party payors have adopted some form of coverage policy on CGM devices, typically, though not exclusively, under durable medical equipment benefits, those coverage policies frequently are restrictive and require significant medical documentation and other requirements in order for policy holders to obtain reimbursement, and as a result, we have difficulty improving the efficiency of our customer service group. Moreover, it is not uncommon for governmental, including federal and/or state, agencies and their contractors to conduct periodic routine billing and compliance reviews that may entail extensive documentation requests, cooperation with which may require significant time and resources.

In addition, Medicare, Medicaid, other governmental health programs, health maintenance organizations and other third-party payors are increasingly attempting to contain healthcare costs by limiting both coverage and the level of reimbursement of new and existing medical devices, and, as a result, they may be restrictive, or they may not cover or provide adequate payment for our products. Many of these programs impose documentation and other eligibility requirements that make it more difficult to obtain reimbursement. In order to obtain additional reimbursement arrangements, including under pharmacy benefits, we may have to agree to a net sales price lower than the net sales price we might charge in other sales channels. Our revenue may be limited by the continuing efforts of government and third-party payors to contain or reduce the costs of healthcare through various increasingly sophisticated means, such as leveraging increased competition, increasing eligibility requirements such as second opinions and other documentation, purchasing in a bundle, or redesigning benefits. We are unable to predict what effect the current or any future healthcare reform will have on our business, or the effect these matters will have on our customers. Our dependence on the commercial success of the G4 PLATINUM, G5 Mobile and G6 systems makes us particularly susceptible to any cost containment or reduction efforts. Accordingly, unless government and other third-party payors provide adequate coverage and reimbursement for the G4 PLATINUM, G5 Mobile and G6 systems, people without coverage who have diabetes may not use our products. Furthermore, payors are increasingly basing reimbursement rates on factors such as the effectiveness of the product, clinical outcomes associated with the product, and any factors that negatively impact the effectiveness or clinical outcomes (or cause a perception of any such negative impact), such as the results of a clinical trial, a product defect, or a product recall, which could negatively impact the reimbursement rate.

Medicare does not cover any items or services that are not "reasonable and necessary." In terms of CGM, Medicare covers the CGM system, which includes supplies necessary for the use of the device, under the Durable Medical Equipment (DME) benefit category. In order to be covered under this benefit, one component of the CGM system must meet the criteria for a durable medical device. To date, the receiver satisfied this criteria. To the extent that a receiver is not used by a Medicare beneficiary or CMS otherwise determines that the items and supplies ordered are not medically necessary, Medicare may not cover that CGM system or any associated supplies.

In some foreign markets, pricing and profitability of medical devices are subject to government control. In the United States, we expect that there will continue to be federal and state proposals for similar controls. Also, the trends toward managed healthcare in the United States and legislative efforts intended to reduce the cost of government insurance programs could significantly influence the purchase of healthcare services and products and may result in lower prices for our products or the exclusion of our products from reimbursement programs.

Uncollectible uninsured and patient due accounts could adversely affect our results of operations.

The primary collection risks for our accounts receivable relate to the uninsured patient accounts and patient accounts for which the primary insurance carrier has paid the amounts covered by the applicable agreement, but patient responsibility amounts (exclusions, deductibles and copayments) remain outstanding. In the event that we are unsuccessful in collecting payments owed by patients, and/or experience increases in the amount, or deterioration in the collectability, of uninsured and patient due accounts receivable, this could adversely affect our cash flows and results of operations. We may also be adversely affected by the growth in patient responsibility accounts as a result of increases in the adoption of plan structures, due to evolving health care policy and insurance landscapes that shift greater responsibility for care to individuals through greater exclusions and copayment and deductible amounts.

We may never receive approval, marketing authorization or clearance from the U.S. FDA and other governmental agencies to market additional CGM systems, expanded indications for use of current and future generation CGM systems, future software platforms, or any other products under development.

In March 2018, via the *de novo* process, the FDA classified the G6 and substantially equivalent devices of this generic type ("integrated continuous glucose monitoring systems" or "iCGMs") into Class II, meaning that going forward products of this generic type may utilize the 510(k) pathway.

Any subsequent modification of our G6 that could significantly affect its safety or effectiveness (for example, a significant change in design or manufacture), or that would constitute a major change in its intended use, will require us to obtain a new 510(k) clearance or could require a new *de novo* submission or a PMA. The FDA requires each manufacturer to make this determination initially, but the FDA may review any such decision and may disagree with a manufacturer's determination. If the FDA disagrees with a manufacturer's determination, the FDA may require the manufacturer to cease marketing and/or recall the modified device until appropriate clearance or approval is obtained. Under these circumstances, the FDA may also subject a manufacturer to significant regulatory fines or other penalties.

If future product candidates are not deemed by the FDA to meet the criteria for submission under the 510(k) pathway, or for down-classification under the *de novo* process or otherwise, we would need to pursue a PMA. The PMA process requires us to prove the safety and effectiveness of our systems to the FDA's satisfaction. This process can be expensive, prolonged and uncertain, requires detailed and comprehensive scientific and human clinical data, and may never result in the FDA granting a PMA. In March 2018, our G6 system received *de novo* classification from the FDA to be a Class II medical device. The *de novo* classification under the generic name "integrated continuous glucose monitoring system," makes the G6 a predicate device for future 510(k) submissions. Complying with this classification requires ongoing compliance with the general controls required by the federal Food Drug and Cosmetic Act and the special controls specified by the FDA's G6 order. Any future system or expanded indications for use of current generation systems will require approval of the applicable regulatory authorities. In addition, we intend to seek either 510(k) clearances or PMA approvals for certain changes and modifications to our existing software platform, but cannot predict when, if ever, those changes and modifications will be approved.

The FDA can refuse to grant a 510(k) clearance or a *de novo* request for marketing authorization, or delay, limit or deny approval of a PMA application or supplement for many reasons, including:

- the system may not be deemed by the FDA to be substantially equivalent to appropriate predicate devices under the 510(k) pathway;
- the system may not satisfy the FDA's safety or effectiveness requirements;
- the data from pre-clinical studies and clinical trials may be insufficient to support approval, clearance and/or marketing authorization;
- the manufacturing process or facilities used may not meet applicable requirements; and
- changes in FDA approval policies or adoption of new regulations may require additional data.

Even if approved or cleared by the FDA or foreign regulatory agencies, future generations of our CGM systems, expanded indications for use of current and future generation CGM systems, our software platforms or any other continuous glucose monitoring system under development, may not be approved or cleared for the indications that are necessary or desirable for successful commercialization. We may not obtain the necessary regulatory approvals or clearances to market these continuous glucose monitoring systems in the United States or outside of the United States. Any delay in, or failure to receive or maintain, approval or clearance for our products could prevent us from generating revenue from these products or achieving profitability. The uncertain timing of regulatory approvals for future generations of our products could subject our current inventory to excess or obsolescence charges, which could have an adverse effect on our business, financial condition and operating results.

If we are unable to successfully complete the pre-clinical studies or clinical trials necessary to support additional PMA, de novo, or 510(k) applications or supplements, we may be unable to commercialize our continuous glucose monitoring systems under development, which could impair our business, financial condition and operating results.

To support current and any future additional PMA, 510(k), *de novo* applications or supplements, we together with our partners, must successfully complete pre-clinical studies, bench-testing, and in some cases clinical trials that will demonstrate that the product is safe and effective. Product development, including pre-clinical studies and clinical trials, is a long, expensive and uncertain process and is subject to delays and failure at any stage. Furthermore, the data obtained from the studies and trials may be inadequate to support approval of an application and the FDA may request additional clinical data in support of those applications, which may result in significant additional clinical expenses and may delay product approvals. While we have in the past obtained, and may in the future obtain, an investigational device exemption, or IDE, prior to commencing clinical trials for our products, FDA approval of an IDE application permitting us to conduct testing does not mean that the FDA will consider the data gathered in the trial to be sufficient to support approval of a PMA, *de novo* or 510(k) application or supplement, even if the trial's intended safety and effectiveness endpoints are achieved. Additionally, since 2009, the FDA has significantly increased the scrutiny applied to its oversight of companies subject to its regulations, including device marketing submissions, by hiring new investigators and increasing the frequency and scope of its inspections of manufacturing facilities. The ongoing oversight by the FDA's Center for Devices and Radiological Health could complicate the product approval process for certain of our and our partners' products, and we cannot predict the effect of such procedural changes and cannot ascertain if such changes will have a substantive impact on the approval of our products or our partners' products. If we fail to

adequately respond to any changes to the 510(k) submission process and associated matters, our business may be adversely impacted.

Unexpected changes to the FDA or foreign regulatory approval processes could also delay or prevent the approval of our products submitted for review. For example, as part of the 21st Century Cures Act passed in 2016, Congress enacted several reforms that further affect medical device regulation both pre- and post-approval. In addition, the FDA is in the process of reviewing the 510(k) approval process and criteria and has announced initiatives to improve the current pre- and post-market regulatory processes and requirements associated with infusion pumps and other home use medical devices. As part of this effort, the FDA is reviewing the adverse event reporting and recall processes for insulin pumps. Any change in the laws or regulations that govern the clearance and approval processes relating to our current and future products could make it more difficult and costly to obtain clearance or approval for new products, or to produce, market and distribute existing products. The data contained in our submissions, including data drawn from our clinical trials, may not be sufficient to support approval of our products or additional or expanded indications. Medical device company stock prices have declined significantly in certain circumstances where companies have failed to meet expectations in regards to the timing of regulatory approval. If the FDA's response causes product approval delays, or is not favorable for any of our products, our stock price (and the market price of our convertible notes) could decline substantially. In November 2018, the FDA announced that it plans to make further changes aimed at modernizing the 510(k) clearance pathway, creating further uncertainty.

The commencement or completion of any of our clinical trials may be delayed or halted, or be inadequate to support approval of FDA marketing applications or supplements, for numerous reasons, including, but not limited to, the following:

- the FDA or other regulatory authorities do not approve a clinical trial protocol or a clinical trial, or place a clinical trial on hold;
- patients do not enroll in clinical trials at the rate we expect;
- patients do not comply with trial protocols;
- patient follow-up does not occur at the rate we expect;
- patients experience adverse side effects;
- patients die during a clinical trial, even though their death may not be related to our products;
- institutional review boards, or IRBs, and third-party clinical investigators may delay or reject our trial protocol;
- third-party clinical investigators decline to participate in a trial or do not perform a trial on our anticipated schedule or consistent with the investigator agreements, clinical trial protocol, good clinical practices or other FDA or IRB requirements;
- DexCom or third-party organizations do not perform data collection, monitoring and/or analysis in a timely or accurate manner or consistent with the clinical trial protocol or investigational or statistical plans;
- third-party clinical investigators have significant financial interests related to DexCom or the study that the FDA deems to make the study results unreliable, or DexCom or investigators fail to disclose such interests;
- regulatory inspections of our clinical trials or manufacturing facilities may, among other things, require us to undertake corrective action or suspend or terminate our clinical trials;
- changes in governmental regulations, policies or administrative actions applicable to our trial protocols;
- the interim or final results of the clinical trial are inconclusive or unfavorable as to safety or efficacy; and
- the FDA concludes that the results from our trial and/or trial design are inadequate to demonstrate safety and effectiveness of the product.

The results of pre-clinical studies do not necessarily predict future clinical trial results, and prior clinical trial results might not be repeated in subsequent clinical trials. Additionally, the FDA may disagree with our interpretation of the data from our pre-clinical studies and clinical trials, or may find the clinical trial design, conduct or results inadequate to prove safety or effectiveness, and may require us to pursue additional pre-clinical studies or clinical trials, which could further delay the approval of our products. If we are unable to demonstrate the safety and effectiveness of our products in our clinical trials to the FDA's satisfaction, we will be unable to obtain regulatory approval to market our products in the United States. In addition, the data we collect from our current clinical trials, our pre-clinical studies and other clinical trials may not be sufficient to support FDA approval, even if our endpoints are met.

We may also conduct clinical studies to demonstrate the relative or comparative effectiveness of continuous glucose monitoring devices for the treatment of diabetes. These types of studies, which often require substantial investment and effort, may not show adequate, or any, clinical benefit for the use of continuous glucose monitoring devices.

Health care policy changes, including U.S. health care reform legislation, may have a material adverse effect on our business.

In response to perceived increases in health care costs in recent years, there have been and continue to be proposals by the federal government, state governments, regulators, and third-party payors to control these costs and, more generally, to reform the U.S. health care system. Certain of these proposals could limit the prices we are able to charge for our products or the amounts of reimbursement available for our products and could limit the acceptance and availability of our products. The adoption of some or all of these proposals could have a material adverse effect on our business, financial condition and results of operations.

Comprehensive healthcare legislation, signed into law in the United States in March 2010, titled the Patient Protection and Affordable Care Act, as amended by the Health Care and Education Affordability Reconciliation Act of 2010, collectively, the ACA, imposes certain stringent compliance, recordkeeping, and reporting requirements on companies in various sectors of the life sciences industry, with which we may need to comply, and enhanced penalties for non-compliance with the new healthcare regulations. However, there are many programs and requirements under the ACA for which the consequences are not fully understood, and it is unclear what the full impact will ultimately be from the ACA. Costs of compliance with this legislation, or any future amendments thereto, may have a material adverse effect on our business, financial condition and results of operations.

The ACA also focuses on a number of Medicare provisions aimed at improving quality and decreasing costs. It is uncertain at this point what negative unintended consequences these provisions will have on patient access to new technologies. The Medicare provisions include value-based payment programs, increased funding of comparative effectiveness research, reduced hospital payments for avoidable readmissions and hospital acquired conditions, and pilot programs to evaluate alternative payment methodologies that promote care coordination, such as bundled physician and hospital payments.

Other legal, regulatory and commercial policy influences are subjecting our industry to significant changes, and we cannot predict whether new regulations or policies will emerge from U.S. federal or state governments, foreign governments, or third-party payors. Government and commercial payors may, in the future, consider healthcare policies and proposals intended to curb rising healthcare costs, including those that could significantly affect reimbursement for healthcare products such as our systems. These policies have included, and may in the future include: basing reimbursement policies and rates on clinical outcomes, the comparative effectiveness, and costs, of different treatment technologies and modalities; imposing price controls and taxes on medical device providers; and other measures. Future significant changes in the healthcare systems in the United States or elsewhere could also have a negative impact on the demand for our current and future products. These include changes that may reduce reimbursement rates for our products and changes that may be proposed or implemented by the current or future laws or regulations.

The ACA included an excise tax on the sale of medical devices equal to 2.3% of the selling price of the device in the U.S. beginning in 2013. The excise tax is applicable to sales of our professional use devices. The excise tax was suspended from 2016 through 2020.

As of December 31, 2018, we believe that our current CGM products were exempt from the excise tax, except for our G4 PLATINUM system for professional use, which is subject to the excise tax. The current tax liability related to our G4 PLATINUM system for professional use is immaterial but may become material in the future. Notwithstanding our belief, if the IRS were to determine that this tax applies to any of our current or future products, our future operating results could be harmed, which in turn could cause the price of our stock to decline. In addition, because of the uncertainty surrounding these issues, the impact of this tax has not been reflected in our forward guidance.

We cannot predict whether the ACA will be repealed, replaced, or modified or how such repeal, replacement or modification may be timed or structured. As a result, we cannot quantify or predict what the effect of such repeal, replacement, or modification might have on our business and results of operations. However, any changes that lower reimbursement for our products or reduce medical procedure volumes could materially and adversely affect our business, financial condition and results of operations.

Consolidation in the health care industry could have an adverse effect on our revenues and results of operations.

Many health care industry companies, including health care systems, distributors, manufacturers, providers, and insurers, are consolidating or have formed strategic alliances. As the health care industry consolidates, competition to provide goods and services to industry participants may become more intense. In addition, this consolidation creates larger enterprises with greater negotiating power, which they can try to use to negotiate price concessions or reductions for medical devices and components produced by us. If we are forced to reduce our prices because of industry consolidation, or if we lose customers as a result of consolidation, our revenues may decrease and our business, financial condition, results of operations and cash flows may suffer.

We conduct business in a heavily regulated industry and if we fail to comply with applicable laws and government regulations, we could become subject to penalties and/or be required to make significant changes to our operations.

The healthcare industry generally, and our business specifically, is subject to extensive foreign, federal, state and local laws and regulations, including those relating to:

- the pricing of our products and services;
- the distribution of our products and services;
- billing for services;
- the obligation to report and return identified overpayments;
- financial relationships with physicians and other referral sources;
- inducements and courtesies given to physicians and other health care providers and patients;
- labeling products;
- the characteristics and quality of our products and services;
- confidentiality, maintenance and security issues associated with medical records and individually identifiable health and other personal information;
- medical device reporting;
- prohibitions on kickbacks, also referred to as anti-kickback laws or regulations;
- any scheme to defraud any healthcare benefit program;
- physician and other healthcare professional payment disclosure requirements;
- personal health information;
- privacy;
- data protection;
- mobile communications;
- false claims; and
- professional licensure.

These laws and regulations are extremely complex and, in some cases, still evolving. If our operations are found to violate any of the foreign, federal, state or local laws and regulations which govern our activities, we may be subject to litigation, government enforcement actions, and applicable penalties associated with the violation, potentially including civil and criminal penalties, damages, fines, exclusion from participation in certain payor programs or curtailment of our operations. Compliance obligations under these various laws are oftentimes detailed and onerous, further contributing to the risk that we could be found to be out of compliance with particular requirements. The risk of being found in violation of these laws and regulations is further increased by the fact that many of them have not been fully interpreted by the regulatory authorities or the courts, and their provisions are open to a variety of interpretations.

The FDA, CMS, the Office of Inspector General for the Department of Health and Human Services, Department of Justice, states' attorneys general and other governmental authorities actively enforce the laws and regulations discussed above. In the United States, medical device manufacturers have been the target of numerous government prosecutions and investigations alleging violations of law, including claims asserting impermissible off-label promotion of medical devices, payments intended to influence the referral of federal or state healthcare business, and submission of false claims for government reimbursement. While we make every effort to comply with applicable laws, we cannot rule out the possibility that the government or other third parties could interpret these laws differently and challenge our practices under one or more of these laws. This likelihood of allegations of non-compliance is increased by the fact that under certain federal and state laws applicable to our business, individuals, known as relators, may bring an action alleging violations of such laws, and potentially be awarded a share of any damages or penalties ultimately awarded to the applicable government body.

Under the United States Federal Food, Drug, and Cosmetic Act, medical devices are classified into one of three classes – Class I, Class II or Class III – depending on the degree of risk associated with each medical device and the extent of control needed to ensure safety and effectiveness. Our G6 has been classified as a Class II device. Class II devices are subject to various general and special controls, including the Quality System Regulations and 510(k) pre-market notification requirements.

From time to time, the FDA may disagree with the classification of a new Class II medical device and require the manufacturer of that device to apply for approval as a Class III medical device. In the event that the FDA determines that our

Class II medical products should be classified as Class III medical devices, we could be precluded from marketing the devices for clinical use within the United States for months, years or longer, depending on the specific change in the classification. Reclassification of our Class II medical products as Class III medical devices could significantly increase our regulatory costs, including the timing and expense associated with required clinical trials and other costs.

Any action against us alleging a violation of these laws or regulations, even if we successfully defend against it, could cause us to incur significant legal expenses and divert our management's time and attention from the operation of our business, and have a material effect on our business.

In addition, the laws and regulations impacting or affecting our business may change significantly in the future. Any new laws or regulations may adversely affect our business. A review of our business by courts or regulatory authorities may result in a determination that could adversely affect our operations. Also, the regulatory environment applicable to our business may change in a way that restricts or adversely impacts our operations.

Our failure to comply with laws, regulations and contract requirements relating to reimbursement of health care goods and services may subject us to penalties and adversely impact our reputation, business, financial condition and cash flows.

Our products are purchased principally by individual patients, who may be eligible for insurance coverage of their devices from various third-party payors, such as governmental programs (*e.g.*, Medicare, Medicaid and comparable non-U.S. programs), private insurance plans, and managed care plans. The ability of our customers to obtain appropriate reimbursement for products and services from third-party payors is critical because it affects which products customers purchase and the prices they are willing to pay. As a result, our products are subject to regulation regarding quality and cost by the U.S. Department for Health & Human Services, including CMS, as well as comparable state and non-U.S. agencies responsible for reimbursement and regulation of health care goods and services. The principal U.S. federal laws that implicate reimbursement issues include those that prohibit (i) the filing of false or improper claims for federal payment, known as the federal civil False Claims Act, (ii) unlawful inducements for the referral of business reimbursable under federally-funded health care programs, known as the federal health care program Anti-Kickback Statute, and (iii) health care service providers from seeking reimbursement for providing certain services to a patient who was referred by a physician who has certain types of direct or indirect financial relationships with the service provider, known as the physician self-referral law, or the "Stark Law." Many states have similar laws that apply to reimbursement by state Medicaid and other government-funded programs, as well as, in some cases, to all payors. In addition, the federal overpayment statute, as interpreted by CMS, requires the report and return of identified overpayments received from federal health care programs within 60 days of identification and quantification, and requires the exercise of reasonable diligence to investigate credible information regarding potential overpayments. Insurance companies can also bring a private cause of action claiming treble damages against a manufacturer for causing a false claim to be filed under the federal Racketeer Influenced and Corrupt Organizations Act, or RICO. Additionally, as a manufacturer of U.S. FDA-approved devices reimbursable by federal healthcare programs, we are subject to the federal Physician Payments Sunshine Act, which requires us to annually report certain payments and other transfers of value we make to U.S.-licensed physicians or U.S. teaching hospitals. On October 25, 2018, President Trump signed into law the "Substance Use-Disorder Prevention that Promotes Opioid Recovery and Treatment for Patients and Communities Act." This law, in part (under a provision entitled "Fighting the Opioid Epidemic with Sunshine"), extends the reporting and transparency requirements for physicians in the Physician Payments Sunshine Act, to physician assistants, nurse practitioners, and other mid-level practitioners. Reporting requirements will go into effect in 2022 for payments and transfers of value made to these additional practitioner-types in 2021.

We may be subject to these (and other) laws regulating the provision of, and reimbursement for, health care goods and services, both in our capacity as a medical device manufacturer and/or as a supplier of covered items and services to federal health care program beneficiaries, with respect to which items and services we submit claims for reimbursement from such programs. The laws and regulations of health care goods and services that apply to us, including those described above, are subject to evolving interpretations and enforcement discretion. As part of our compliance program, we have reviewed our sales contracts, marketing materials, and billing practices (among others) to reduce the risk of non-compliance with these and other foreign, federal and state laws. If a governmental authority was to conclude that we are not in compliance with applicable laws and regulations, we and our officers, directors and employees could be subject to criminal and civil penalties, including, for example, exclusion from participation as a supplier of product to beneficiaries covered by federal healthcare programs, including but not limited to Medicare and Medicaid. Any failure to comply with laws, regulations or contractual requirements relating to reimbursement and health care goods and services could adversely affect our reputation, business, financial condition and cash flows.

With respect to the federal Anti-Kickback Statute, Congress and the U.S. Department of Health & Human Services Office of Inspector General, or OIG, have established a large number of statutory exceptions and regulatory safe harbors. An arrangement that fits squarely into an exception or safe harbor is immune from prosecution under the Anti-Kickback Statute.

We train and educate employees and marketing representatives on the Anti-Kickback Statute and their obligations thereunder, and we endeavor to comply with the applicable safe harbors. However, some of our arrangements, like many other common and non-abusive arrangements, may implicate the Anti-Kickback Statute and are not covered by a safe harbor, but nevertheless do not implicate any of the statute's principal policy objectives and, as such, likely do not pose a material risk of program abuse or warrant the imposition of sanctions. However, we cannot offer assurance that arrangements that do not squarely meet an exception or safe harbor will not be found to violate the Anti-Kickback Statute. Allegations of violations of the Anti-Kickback Statute may be brought under the federal Civil Monetary Penalty Law, which requires a lower burden of proof than other fraud and abuse laws, including the Anti-Kickback Statute.

Our financial relationships with referring physicians and their immediate family members must comply with the Stark Law by meeting an applicable exception. We attempt to structure our relationships to meet an exception to the Stark Law, but the regulations implementing the exceptions are detailed and complex, and we cannot assure you that every relationship complies fully with the Stark Law. Unlike the Anti-Kickback Statute, failure to meet an exception under the Stark Law results in a violation of the Stark Law, even if such violation is technical in nature.

Additionally, if we violate the Anti-Kickback Statute or Stark Law, or if we improperly bill for our services, or retain overpayments longer than 60 days after identification, or fail to act with reasonable diligence to investigate credible information regarding potential overpayments, we may be found to violate the federal civil False Claims Act, either under a suit brought by the government or by a private person under a *qui tam* relator, or "whistleblower," suit.

We could become the subject of governmental investigations, claims and litigation.

Health care companies are subject to numerous investigations by various governmental agencies. Further, under the False Claims Act, private parties have the right to bring *qui tam*, or "whistleblower," suits against companies that submit false claims for payments to, or improperly retain overpayments from, the government. Some states have adopted similar state whistleblower and false claims provisions. Depending upon whether the underlying conduct alleged in such inquiries or investigations could be considered systemic, the resolution could have a material, adverse effect on our financial position and results of operations.

Governmental agencies and their agents, such as CMS Medicare Administrative Contractors and other CMS contractors, as well as the OIG, state Medicaid programs, and other state and federal agencies may conduct audits of our operations, relating to covered items and services including those furnished to beneficiaries, health care providers and distributors. Commercial and government-funded managed care payors may conduct similar post-payment audits, and we also perform internal audits and monitoring. Depending on the nature of the conduct found in such audits and whether the underlying conduct could be considered systemic, the resolution of these audits could have a material adverse effect on our financial position and results of operations.

CMS contracts with Recovery Audit Contractors, or RACs, on a contingency fee basis to conduct post-payment reviews to detect and correct improper payments in the fee-for-service Medicare program. The ACA expanded the RAC program's scope to include managed Medicare plans and Medicaid claims. RAC denials are appealable; however, there currently are significant delays in the assignment of new Medicare appeals to Administrative Law Judges, which negatively impacts our ability to appeal RAC payment denials. In addition, CMS employs various other program integrity contractors – including zone program integrity contractors, or ZPICs, Medicaid integrity contractors, or MICs, and unified program integrity contractors, or UPICs – to perform post-payment audits of claims and identify overpayments, and state Medicaid agencies and other contractors have increased their review activities.

We are not presently aware of any governmental investigations involving our executives or us. However, any future investigations of our executives, our managers or us could result in significant liabilities or penalties to us, as well as adverse publicity. Should we be found out of compliance with any of these laws, regulations or programs, depending on the nature of the findings, our business, our financial position and our results of operations could be negatively impacted.

Laws and regulations governing the export of our products could adversely impact our business.

The U.S. Department of the Treasury's Office of Foreign Assets Control, and the Bureau of Industry and Security at the U.S. Department of Commerce, administer certain laws and regulations that restrict U.S. persons and, in some instances, non-U.S. persons, in conducting activities, and transacting business with or making investments in certain countries, governments, entities and individuals subject to U.S. economic sanctions. Due to our international operations, we are subject to such laws and regulations, which are complex, restrict our business dealings with certain countries and individuals, and are constantly changing. Further restrictions may be enacted, amended, enforced or interpreted in a manner that materially impacts our operations.

Violations of these regulations are punishable by civil penalties, including fines, denial of export privileges, injunctions, asset seizures, debarment from government contracts and revocations or restrictions of licenses, as well as criminal fines and imprisonment. We have established procedures designed to assist with our compliance with such laws and regulations.

However, we have only limited experience dealing with these laws and regulations and we cannot guarantee that our procedures will effectively prevent us from violating these regulations in every transaction in which we may engage. Any such violation could adversely affect our reputation, business, financial condition and results of operations.

If our manufacturing capabilities are insufficient to produce an adequate supply of product at appropriate quality levels, our growth could be limited and our business could be harmed.

We currently have limited resources and facilities for commercially manufacturing sufficient quantities of product to meet expected demand. In the past, we have had difficulty scaling our manufacturing operations to provide a sufficient supply of product to support our commercialization efforts. From time to time, we have also experienced brief periods of backorder and, at times, have had to limit the efforts of our sales force to introduce our products to new customers. We have focused significant effort on continual improvement programs in our manufacturing operations intended to improve quality, yields and throughput. We have made progress in manufacturing to enable us to supply adequate amounts of product to support our commercialization efforts; however, we cannot guarantee that supply will not be constrained in the future. In order to produce our products in the quantities we anticipate will be necessary to meet market demand, we will need to increase our manufacturing capacity by a significant factor over the current level. In addition, we will have to modify our manufacturing design, reliability and process if and when our next-generation sensor technologies are approved and commercialized. There are technical challenges to increasing manufacturing capacity, including equipment design and automation, materials procurement, manufacturing site expansion, problems with production yields and quality control and assurance. Continuing to develop commercial-scale manufacturing facilities will require the investment of substantial additional funds and the hiring and retention of additional management, quality assurance, quality control and technical personnel who have the necessary manufacturing experience. The scaling of manufacturing capacity is subject to numerous risks and uncertainties, and may lead to variability in product quality or reliability, increased construction timelines, as well as resources required to design, install and maintain manufacturing equipment, among others, all of which can lead to unexpected delays in manufacturing output. In addition, any changes to our manufacturing processes may trigger the need for submissions or notifications to, and in some cases advance approval from, the FDA because of the potential impact of changes on our previously cleared or approved devices. Our facilities are subject to inspections by the FDA and corresponding state agencies on an ongoing basis, and we must comply with Good Manufacturing Practices and FDA Quality Systems Regulations. We may be unable to adequately maintain, develop and expand our manufacturing process and operations or maintain compliance with FDA and state agency requirements, and manufacturing issues could impact our cleared and approved products. If we are unable to manufacture a sufficient supply of our current products or any future products for which we may receive approval, maintain control over expenses or otherwise adapt to anticipated growth, or if we underestimate growth, we may not have the capability to satisfy market demand, contractual obligations, and our business will suffer.

Additionally, the production of our products must occur in a highly controlled and clean environment to minimize particles and other yield- and quality-limiting contaminants. Weaknesses in process control or minute impurities in materials may cause a substantial percentage of defective products. If we are not able to maintain stringent quality controls, or if contamination problems arise, our clinical development and commercialization efforts could be delayed, which would harm our business and our results of operations.

We also require the suppliers and business partners of components or services for our products to comply with law and certain of our policies regarding sourcing practices, but we do not control them or their practices. If any supplier or business partner violates laws or implements unethical practices, there could be disruptions to our supply chain, cancellation of our orders, terminations of the relationship with the partner or damage to our reputation, and the FDA or other regulators could seek to hold us responsible for such violations.

In the future, if our products have material defects or errors, this could result in loss or delay of revenues, delayed market acceptance, damaged reputation, diversion of development resources, legal claims, increased insurance costs or increased service and warranty costs, any of which could harm our business. Such defects or errors could also prompt us to amend certain warning labels or narrow the scope of the use of our products, either of which could hinder our success in the market.

Since the first commercial launch of our products in 2006, we have had periodic field failures related to our products, including reports of sensor errors, sensor failures, broken sensors, receiver malfunctions, audible alarms and alert failures, and transmitter failures. To comply with the FDA‘s medical device reporting requirements, we have filed reports of applicable product field failures. Although we believe we have taken and are taking appropriate actions aimed at reducing or eliminating field failures, we cannot guarantee that we will not have additional failures going forward.

We depend upon third-party suppliers, making us vulnerable to supply problems and price fluctuations, which could harm our business.

We rely on single sources for certain components and materials used in manufacturing, such as for the application-specific integrated circuit that is incorporated into the transmitter, seals used for the applicator and certain polymers used to

synthesize our polymeric biointerface membranes for our products. In some cases, our agreements with these and our other suppliers can be terminated by either party upon short notice. Our contract manufacturers also rely on single-source suppliers to manufacture some of the components used in our products. Our manufacturers and suppliers may encounter problems during manufacturing for a variety of reasons, including failure to follow specific protocols and procedures, failure to comply with applicable regulations, failed FDA audit or inspection (for example, failures leading to Form 483 Observations and Warning Letters, or other enforcement actions), equipment malfunction and environmental factors, any of which could delay or impede their ability to meet our demand. If our single-source suppliers shift their manufacturing and assembly sites to other locations, these new sites may require additional FDA approval and inspection. Should any such FDA approval be delayed, or such inspection require corrective action, our supply of critical components may be constrained or eliminated. Our reliance on these outside manufacturers and suppliers also subjects us to other risks that could harm our business, including:

- we may not be able to obtain adequate supply in a timely manner or on commercially reasonable terms;
- our products are technologically complex and it is difficult to develop alternative supply sources;
- we are not a major customer of many of our suppliers, and these suppliers may therefore give other customers' needs higher priority than ours;
- our suppliers may make errors in manufacturing components that could negatively affect the quality, effectiveness or safety of our products or cause delays in shipment of our products;
- we may have difficulty locating and qualifying alternative suppliers for our single-source supplies;
- switching components may require product redesign and submission to the FDA of new applications – such as a PMA or 510(k) supplement or possibly a separate PMA or 510(k), either of which could significantly delay production;
- our suppliers manufacture products for a range of customers, and fluctuations in demand for the products these suppliers manufacture for others may affect their ability to deliver components to us in a timely manner;
- our suppliers may make obsolete components that are critical to our products; and
- our suppliers may encounter financial hardships unrelated to our demand for components, including those related to changes in global economic conditions, which could inhibit their ability to fulfill our orders and meet our requirements.

We may not be able to quickly establish additional or replacement suppliers, particularly for our single-source components, in part because of the FDA inspection and approval process and because of the custom nature of various parts we design. Any interruption or delay in the supply of components or materials, or our inability to obtain components or materials from alternate sources at acceptable prices in a timely manner, could impair our ability to meet the demand of our customers and cause them to cancel orders or switch to competitive products.

Potential long-term complications from our current or future products or other continuous glucose monitoring systems under development may not be revealed by our clinical experience to date.

Based on our experience, complications from use of our products may include sensor errors, sensor failures, broken sensors, lodged sensors or skin irritation under the adhesive dressing of the sensor. Inflammation or redness, swelling, minor infection, and minor bleeding at the sensor insertion site are also possible risks with an individual's use of our products. However, if unanticipated long-term side-effects result from the use of our products or other glucose monitoring systems we have under development, we could be subject to liability and the adoption of our systems may become more limited. With respect to our G4 PLATINUM and G5 Mobile systems, our clinical trials have been limited to seven days of continuous use, and with respect to our G6, our clinical trials have been limited to ten days of continuous use. It is possible that the results from our clinical studies and trials may not be indicative of the clinical results obtained when we examine the patients at later dates. We cannot assure you that repeated, long-term use would not result in unanticipated adverse effects, potentially even after the sensor is removed.

If we or our suppliers or distributors fail to comply with ongoing regulatory requirements, or if we have unanticipated problems with our products, the products could be subject to restrictions or withdrawal from the market.

Any product for which we obtain marketing approval, clearance or authorization will be subject to continual review and periodic inspections by the FDA and other regulatory bodies, which may include inspection of our manufacturing processes, post-approval clinical data and promotional activities for such product. The FDA's Medical Device Reporting, or MDR, regulations require that we report to the FDA any incident in which our product may have caused or contributed to a death or serious injury, or in which our product malfunctioned and, if the malfunction were to recur, it would likely cause or contribute to a death or serious injury.

If FDA determines that there is a reasonable probability that a device intended for human use would cause serious, adverse health consequences or death, the agency may issue a cease distribution and notification order and a mandatory recall order. We may also decide to recall a product voluntarily if we find a material deficiency, including unacceptable risks to health, manufacturing defects, design errors, component failures, labeling defects, or other issues. Recalls of our products could divert the attention of our management and have an adverse effect on our reputation, financial condition, and operating results.

We and our suppliers are also required to comply with the FDA's Quality System Regulation, or QSR, and other regulations which cover the methods and documentation of the design, testing, production, control, selection and oversight of suppliers or contractors, quality assurance, labeling, packaging, storage, complaint handling, shipping and servicing of our products. The FDA enforces the QSR through unannounced inspections.

Compliance with ongoing regulatory requirements can be complex, expensive and time-consuming. Failure by us or one of our suppliers or distributors to comply with statutes and regulations administered by the FDA, competent authorities and other regulatory bodies, or failure to take adequate response to any observations, could result in, among other things, any of the following actions:

- warning letters or untitled letters that require corrective action;
- delays in approving, or refusal to approve, our continuous glucose monitoring systems;
- fines and civil or criminal penalties;
- unanticipated expenditures;
- FDA refusal to issue certificates to foreign governments needed to export our products for sale in other countries;
- suspension or withdrawal of clearance or approval by the FDA or other regulatory bodies;
- product recall or seizure;
- administrative detention;
- interruption of production, partial suspension, or complete shutdown of production;
- interruption of the supply of components from our key component suppliers;
- operating restrictions;
- court consent decrees;
- FDA orders to repair, replace, or refund the cost of devices;
- injunctions; and
- criminal prosecution.

The effect of these events can be difficult to quantify. If any of these actions were to occur, it would harm our reputation and cause our product sales and profitability to suffer. In addition, we believe events that could be classified as reportable events pursuant to MDR regulations are generally underreported by physicians and users, and any underlying problems could be of a larger magnitude than suggested by the number or types of MDRs filed by us. Furthermore, our key component suppliers may not currently be or may not continue to be in compliance with applicable regulatory requirements.

Even if regulatory approval or clearance of a product is granted, the approval or clearance may be subject to limitations on the indicated uses for which the product may be marketed or contain requirements for costly post-marketing testing or surveillance to monitor the safety or effectiveness of the product. Later discovery of previously unknown problems with our products, including software bugs, unanticipated adverse events or adverse events of unanticipated severity or frequency, manufacturing problems, or failure to comply with regulatory requirements such as the QSR, MDR reporting, or other post-market requirements may result in restrictions on such products or manufacturing processes, withdrawal of the products from the market, voluntary or mandatory recalls, fines, suspension of regulatory approvals, product seizures, injunctions, the imposition of civil or criminal penalties, or criminal prosecution. In addition, our distributors have rights to create marketing materials for their sales of our products, and may not adhere to contractual, legal or regulatory limitations that are imposed on their marketing efforts.

We are subject to claims of infringement or misappropriation of the intellectual property rights of others, which could prohibit us from shipping affected products, require us to obtain licenses from third parties or to develop non-infringing alternatives, and subject us to substantial monetary damages and injunctive relief. We may also be subject to other claims or suits.

Third parties have asserted, and may assert, infringement or misappropriation claims against us with respect to our current or future products. We are aware of numerous patents issued to third parties that may relate to aspects of our business, including the design and manufacture of continuous glucose monitoring sensors and membranes, as well as methods for

continuous glucose monitoring. Whether a product infringes a patent involves complex legal and factual issues, the determination of which is often uncertain. Therefore, we cannot be certain that we have not infringed the intellectual property rights of such third parties or others. Our competitors may assert that our continuous glucose monitoring systems or the methods we employ in the use of our systems are covered by U.S. or foreign patents held by them. This risk is exacerbated by the fact that there are numerous issued patents and pending patent applications relating to self-monitored glucose testing systems in the medical technology field. Because patent applications may take years to issue, there may be applications now pending of which we are unaware that may later result in issued patents that our products infringe. There could also be existing patents of which we are unaware that one or more components of our system may inadvertently infringe. As the number of competitors in the market for continuous glucose monitoring systems grows, the possibility of inadvertent patent infringement by us or a patent infringement claim against us increases. We have been and continue to be involved in various patent infringement actions, including:

On March 28, 2016, AgaMatrix, Inc., or AgaMatrix, filed a patent infringement lawsuit against us in the United States District Court for the District of Oregon, asserting that certain of our products infringe certain patents held by AgaMatrix. On June 6, 2016, AgaMatrix filed a First Amended Complaint asserting the same three patents. On February 24, 2017, the Court granted AgaMatrix's motion to substitute WaveForm Technologies, Inc., or WaveForm, as the new plaintiff following AgaMatrix's transfer of the three patents to its newly formed entity. On August 25, 2016, we filed petitions for *inter partes* review with the Patent Trial and Appeal Board, or PTAB, of the U.S. Patent and Trademark Office seeking a determination that two of the three asserted patents are invalid under U.S. patent law and those petitions were granted on March 6, 2017. On March 8, 2017, we filed a petition for *inter partes* review with the PTAB seeking a determination that the third of the three asserted patents is invalid under U.S. patent law. This petition was granted on September 15, 2017. The PTAB issued a Final Written Decision for each of the first two patents on February 28, 2018, where the PTAB found the majority of asserted claims from the first patent unpatentable and the remaining claims under review not unpatentable. The PTAB found all claims under review from the second patent not unpatentable. We believe the PTAB erred in finding any claims of the first two patents not unpatentable, and appealed the PTAB's decision to the United States Court of Appeals for the Federal Circuit, or Federal Circuit, on March 30, 2018. Briefing of the appeal is complete and we are currently awaiting the dates for oral argument from the Court of Appeals. The PTAB issued a Final Written Decision for the third patent on September 12, 2018, where the PTAB found all claims of the third patent asserted against us in the District of Oregon litigation unpatentable. WaveForm did not appeal this decision. On January 4, 2019, the parties stipulated to the dismissal of all claims and counterclaims regarding the third asserted patent. Most activity in the patent infringement lawsuit against us in the District of Oregon was stayed until the PTAB completed the *inter partes* review proceedings. That stay was lifted on October 10, 2018. The remaining claims and counterclaims will continue with an estimated date of trial in February 2020. It is our position that Waveform's assertions of infringement have no merit.

We have also filed several lawsuits against AgaMatrix. We filed a patent infringement lawsuit against AgaMatrix in the United States District Court for the Central District of California, or C.D. Cal., which is currently on appeal to the Federal Circuit based on a Final Judgment of non-infringement entered by the C.D. Cal. judge on February 23, 2018. AgaMatrix sought attorneys' fees for this lawsuit and as of December 31, 2018 we have accrued an immaterial amount for those fees. On September 15, 2017, we filed a patent infringement lawsuit against AgaMatrix in the United States District Court for the District of Delaware, asserting certain single-point blood glucose monitoring products of AgaMatrix infringe two patents held by us. In addition, on September 18, 2017, we filed a Complaint against AgaMatrix in the International Trade Commission, referred to as the ITC, requesting that the ITC institute an investigation and issue an order excluding certain products of AgaMatrix from importation into or sale in the United States based on AgaMatrix's infringement of the same two patents asserted in the Delaware litigation. On September 14, 2018, AgaMatrix filed two petitions for *inter partes* review for each of the same two patents we asserted in the District of Delaware and the ITC. We filed a response to all four petitions on December 17, 2018. AgaMatrix had requested additional briefing on the matter and the PTAB has authorized both sides to do so. Briefing was completed in January 2019.

Neither the outcome of these lawsuits nor the amount and range of potential loss associated with the lawsuits can be assessed at this time. Other than the attorneys' fees described above, as of December 31, 2018 we have accrued no amounts for contingent losses associated with these suits.

Any infringement or misappropriation claim could cause us to incur significant costs, place significant strain on our financial resources, divert management's attention from our business and harm our reputation. If the relevant patents are upheld as valid and enforceable and we are found to infringe such patents, we could be prohibited from selling any of our products that is found to infringe unless we could obtain licenses to use the technology covered by the patent or are able to design around the patent. We may be unable to obtain a license on terms acceptable to us, if at all, and we may not be able to redesign our products to avoid infringement. Even if we are able to redesign our products to avoid an infringement claim, we may not receive FDA approval for such changes in a timely manner or at all. A court could also order us to pay compensatory damages for such infringement, plus prejudgment interest and could, in addition, treble the compensatory damages and award attorney fees. These damages could be substantial and could harm our reputation, business, financial condition and operating results. A

court also could enter orders that temporarily, preliminarily or permanently enjoin us and our customers from making, using, selling or offering to sell one or more of our products, or could enter an order mandating that we undertake certain remedial activities. Depending on the nature of the relief ordered by the court, we could become liable for additional damages to third parties.

Any adverse determination in litigation or interference proceedings to which we are or may become a party relating to patents or other intellectual property rights could subject us to significant liabilities to third parties or require us to seek licenses from other third parties. Furthermore, if we are found to willfully infringe third-party patents, we could, in addition to other penalties, be required to pay treble damages and/or attorneys' fees for the prevailing party. Although patent and intellectual property disputes in the medical device area have often been settled through licensing or similar arrangements, costs associated with such arrangements may be substantial and would likely include ongoing royalties. We may be unable to obtain necessary intellectual property licenses on satisfactory terms. If we do not obtain any such necessary licenses, we may not be able to redesign our products to avoid infringement and any redesign may not receive FDA approval in a timely manner or at all. Adverse determinations in a judicial or administrative proceeding or failure to obtain necessary intellectual property licenses could prevent us from manufacturing and selling our products, which would have a significant adverse impact on our business.

In addition, from time to time, we are subject to various claims and suits arising out of the ordinary course of business, including commercial or employment related matters. Although individually we do not expect these claims or suits to have a material adverse effect on DexCom, in the aggregate they may divert significant time and resources from our staff.

Our inability to adequately protect our intellectual property could allow our competitors and others to produce products based on our technology, which could substantially impair our ability to compete.

Our success and our ability to compete depend, in part, upon our ability to maintain the proprietary nature of our technologies. We rely on a combination of patent, copyright and trademark law, and trade secrets and nondisclosure agreements to protect our intellectual property. However, such methods may not be adequate to protect us or permit us to gain or maintain a competitive advantage. Our patent applications may not issue as patents in a form that will be advantageous to us, or at all. Our issued patents, and those that may issue in the future, may be challenged, invalidated or circumvented, which could limit our ability to stop competitors from marketing related products. In addition, there are numerous recent changes to the patent laws and proposed changes to the rules of the U.S. Patent and Trademark Office, which may have a significant impact on our ability to protect our technology and enforce our intellectual property rights. For example, in September 2011, the United States enacted sweeping changes to its patent system under the Leahy-Smith America Invents Act, including changes that would transition the United States from a "first-to-invent" system to a "first-to-file" system and alter the processes for challenging issued patents. These changes could increase the uncertainties and costs surrounding the prosecution of our patent applications and the enforcement or defense of our issued patents.

To protect our proprietary rights, we may in the future need to assert claims of infringement against third parties. The outcome of litigation to enforce our intellectual property rights in patents, copyrights, trade secrets or trademarks is highly unpredictable, could result in substantial costs and diversion of resources, and could have a material adverse effect on our business, financial condition and results of operations regardless of the final outcome of such litigation. In the event of an adverse judgment, a court could hold that some or all of our asserted intellectual property rights are not infringed, or are invalid or unenforceable, and could award attorney fees.

Despite our efforts to safeguard our unpatented and unregistered intellectual property rights, we may not succeed in doing so or the steps taken by us in this regard may not be adequate to detect or deter misappropriation of our technology or to prevent an unauthorized third party from copying or otherwise obtaining and using our products, technology or other information that we regard as proprietary. In addition, third parties may be able to design around our patents. Furthermore, the laws of foreign countries may not protect our proprietary rights to the same extent as the laws of the United States.

We operate in a highly competitive market and face competition from large, well-established medical device manufacturers with significant resources, and, as a result, we may not be able to compete effectively.

The market for glucose monitoring devices is intensely competitive, subject to rapid change and significantly affected by new product introductions and other market activities of industry participants. In selling the G4 PLATINUM, G5 Mobile and G6 systems, we compete directly with Medtronic plc's Diabetes Group; Roche Diabetes Care, a division of Roche Diagnostics; privately-held LifeScan, Inc.; the Diabetes Care division of Abbott Laboratories; and Ascensia Diabetes Care, each of which manufactures and markets products for the single-point finger stick device market. Collectively, these companies currently account for the majority of the worldwide sales of self-monitored glucose testing systems.

Several companies are developing or commercializing products for continuous or periodic monitoring of glucose levels in the interstitial fluid under the skin that compete directly with our products. Medtronic plc's Diabetes Group markets and sells a standalone glucose monitoring product called Guardian Connect, which has launched both internationally and in the United States after receiving FDA approval in 2018. In 2015, Abbott Diabetes Care, Inc. launched a consumer flash glucose

monitoring system, FreeStyle Libre outside the United States. Abbott first received FDA approval for a professional-use version of this system in September 2016 for use in the United States, referred to as the Pro Flash, for which readings are only made available to the patient through consultation with their healthcare provider. Abbott first received FDA approval for the consumer version of this system, referred to a Flash, in September 2017 for use in the United States.

Medtronic and other third parties have developed or are developing insulin pumps integrated with continuous glucose monitoring systems that provide, among other things, the ability to suspend insulin administration while the user's glucose levels are low and to automate basal and bolus insulin dosing. Medtronic launched its 670G insulin delivery system in 2017.

Some of the companies developing or marketing competing devices are publicly traded or divisions of publicly traded companies, and these companies possess several competitive advantages over us, including:

- significantly greater name recognition;
- established relations with healthcare professionals, customers and third-party payors;
- established distribution networks;
- additional lines of products, and the ability to bundle products to offer higher discounts or incentives to gain a competitive advantage;
- greater experience in conducting research and development, manufacturing, clinical trials, obtaining regulatory approval for products and marketing approved products;
- the ability to integrate multiple products to provide additional features beyond continuous glucose monitoring; and
- greater financial and human resources for product development, manufacturing, sales and marketing, and patent litigation.

As a result, we may not be able to compete effectively against these companies or their products, which may adversely impact our business.

We enter into collaborations with third parties that may not result in the development of commercially viable products or the generation of significant future revenues.

In the ordinary course of our business, we enter into collaborative arrangements to develop new products and to pursue new markets, such as our agreements with Eli Lilly, Insulet, Novo Nordisk and Tandem Diabetes, to integrate our continuous glucose monitoring technology into their insulin delivery systems, and our recently amended agreement with Verily to develop one or more next-generation CGM products. Our Eli Lilly, Insulet, Novo Nordisk and Verily collaborations have not yet resulted in a commercial product. In June 2018, Tandem received FDA approval for its latest sensor-augmented insulin delivery system, the t:slim X2™ Insulin Pump Basal-IQ™ technology, which integrates with our G6 system.

As a result of these development relationships, our operating results depend, to some extent, on the ability of our development partners to successfully commercialize their insulin delivery systems or monitoring products. Any factors that may limit our partners' ability to achieve widespread adoption of their systems, including competitive pressures, technological breakthroughs for the treatment or prevention of diabetes, adverse regulatory or legal actions relating to insulin pump products, or changes in reimbursement rates or policies of third-party payors relating to insulin pumps or similar products, could have an adverse impact on our operating results. For example, Animas announced in September 2017 that it has discontinued the manufacturing and sale of Animas® Vibe® and OneTouch Ping® insulin pumps, then exited the insulin pump business. Animas selected Medtronic as its partner to facilitate a seamless transition for patients, caregivers and healthcare providers. Patients using an Animas insulin pump are offered the option to transfer to a Medtronic pump. As Animas Vibe is compatible with DexCom's products, and Animas has served as a distributor for our products in certain geographies, the transition of Animas customers to Medtronic pumps, which are not integrated with our sensors, may adversely impact our revenues. As another example, UnitedHealthcare announced, effective July 1, 2016, that UnitedHealthcare Community Plan and Commercial members will no longer have an in-network choice among providers of insulin pumps, and designated Medtronic as its preferred, in-network provider. We do not have a relationship to integrate our CGM technology with Medtronic, which has developed an insulin pump augmented with its proprietary continuous glucose monitoring system. The decision by UnitedHealthcare to establish Medtronic as its preferred provider of insulin pumps could result in a material reduction in the number of insulin pumps sold by other insulin pump manufacturers, including Tandem and Insulet. In addition, it is possible that other large third-party payors will establish preferred providers of insulin pumps, which may or may not include the pumps produced by our development partners.

Many of the companies that we collaborate with are also competitors or potential competitors who may decide to terminate our collaborative arrangement. In the event of such a termination, we may be required to devote additional resources to product development and commercialization, we may need to cancel some development programs and we may face increased competition. Additionally, collaborations may not result in the development of products that achieve commercial success and could be terminated prior to developing any products. Former collaborators may use the experience and insights

they develop in the course of their collaborations with us to initiate or accelerate their development of products that compete with our products, which may create competitive disadvantages for us. Accordingly, we cannot provide assurance that any of our collaborations will result in the successful development of a commercially viable product or result in significant additional future revenues.

In addition, our development timelines are highly dependent on our ability to achieve clinical endpoints and regulatory requirements and to overcome technology challenges, and may be delayed due to scheduling issues with patients and investigators, requests from institutional review boards, product performance and manufacturing supply constraints, among other factors. In addition, support of these clinical trials requires significant resources from employees involved in the production of our products, including research and development, manufacturing, quality assurance, and clinical and regulatory personnel. Even if our development and clinical trial efforts succeed, the FDA may not approve the combined products or may require additional product testing and clinical trials before approving the combined products, which would result in product launch delays and additional expense. If approved by the FDA, the combined products may not be accepted in the marketplace by physicians and people with diabetes.

Technological breakthroughs by us or our competitors could materially impact sales of current or future generations of our products.

The glucose monitoring market is subject to rapid technological change and product innovation. Our products are based on our proprietary technology, but a number of companies and medical researchers are pursuing new technologies for the monitoring of glucose levels. FDA or other regulatory approval of a commercially viable continuous glucose monitor or sensor produced by one of our competitors could significantly reduce market acceptance of our systems. As discussed above in the risk factor entitled "*We operate in a highly competitive market and face competition from large, well-established medical device manufacturers with significant resources, and, as a result, we may not be able to compete effectively*," several of our competitors are in various stages of developing continuous or intermittent glucose monitors or sensors, including non-invasive and invasive devices, and the FDA has approved a number of these competing products. In addition, certain development efforts throughout the diabetes industry, including that of the National Institutes of Health and other supporters of diabetes research are continually seeking ways to prevent, cure or improve treatment of diabetes. Therefore, our products may be rendered obsolete by technological breakthroughs in diabetes monitoring, treatment, prevention or cure.

In addition, in the periods leading up to the launch of new or upgraded versions of our continuous glucose monitoring products, our customers' anticipation of the release of those products may cause them to cancel, change or delay current period purchases of our current products, which could have a material adverse effect on our business, financial condition and results of operations.

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

Our business exposes us to the risk of product liability claims that is inherent in the testing, manufacturing and marketing of medical devices, including those which may arise from the misuse (including system hacking or other unauthorized access by third parties to our systems) or malfunction of, or design flaws in, our products. This liability may vary based on the FDA classification associated with our devices. Notably, the classification of our G6 system as a Class II medical device is likely to weaken our ability to rely on federal preemption of state law claims that assert liability against us for harms arising from use of the G6. We may be subject to product liability claims if our products cause, or merely appear to have caused, an injury. Claims may be made by customers, healthcare providers or others selling our products. The risk of product liability claims may increase now that our G5 Mobile system has obtained indications and approved labeling in the United States, in Canada, and in the countries utilizing the CE Mark that allow for our patients to make diabetes treatment decisions with our CGM technology in conjunction with only two finger sticks required for calibration of the system and our G6 does not require confirmatory finger sticks when making treatment decisions or finger stick tests each day for calibration, although it does require finger stick tests when symptoms do not match readings and when readings are unavailable. The risk of claims may also increase if our products are subject to a product recall or seizure. An example of the difficulty of complying with the regulatory requirements associated with the manufacture of our products, we issued notifications to our customers regarding the audible alarms and alerts associated with our receivers, as discussed earlier in the risk factor entitled "*If we or our suppliers or distributors fail to comply with ongoing regulatory requirements, or if we experience unanticipated problems with our products, the products could be subject to restrictions or withdrawal from the market*."

Although we have product liability and clinical trial liability insurance that we believe is appropriate, this insurance is subject to deductibles and coverage limitations. Our current product liability insurance may not continue to be available to us on acceptable terms, if at all, and, if available, the coverage may not be adequate to protect us against any future product liability claims. Further, if additional products are approved for marketing, we may seek additional insurance coverage. If we are unable to obtain insurance at an acceptable cost or on acceptable terms with adequate coverage or otherwise protect against potential product liability claims, we will be exposed to significant liabilities, which may harm our business. A product liability

claim, recall or other claim with respect to uninsured liabilities or for amounts in excess of insured liabilities could result in significant costs and significant harm to our business.

We may be subject to claims against us even if the apparent injury is due to the actions of others or misuse of the device. Our customers, either on their own or following the advice of their physicians, may use our products in a manner not described in the products' labeling and that differs from the manner in which it was used in clinical studies and approved by the FDA. For example, our current systems are designed to be used by an individual continuously for up to seven days for our G4 PLATINUM and G5 Mobile system and up to 10 days for our G6 system, but the individual might be able to circumvent the safeguards designed into the systems and use the products for longer than seven or 10 days. Off-label use of products by customers is common, and any such off-label use of our products could subject us to additional liability, or require design changes to limit this potential off-label use once discovered. The CE Mark and the recent HealthCanada and FDA approvals for our G5 Mobile system include indications that allow patients to make diabetes treatment decisions based on the information generated by such system, although both regulators still require finger stick calibrations twice per day. In addition, other regulatory agencies may in the future approve similar diabetes treatment indications. We expect that such diabetes treatment indications could expose us to additional liability. These liabilities could prevent or interfere with our product commercialization efforts. Defending a suit, regardless of merit, could be costly, could divert management attention and might result in adverse publicity, which could result in the withdrawal of, or inability to recruit, clinical trial volunteers or result in reduced acceptance of our products in the market.

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

Although we believe our promotional materials and practices comply with FDCA and other applicable laws and regulations, as may be amended from time to time, if the FDA or other regulatory body with competent jurisdiction over us, our activities or products takes the position that our marketing, promotional or other materials or activities constitute improper promotion or marketing of an unapproved or improper use, the FDA or other regulatory body could request that we modify our materials or practices, or subject us to regulatory enforcement actions, including the issuance of a warning letter, injunction, seizure, civil fine and criminal penalties. It is also possible that other federal, state or foreign enforcement authorities might take action if they consider promotional, marketing or other materials or activities to constitute improper promotion of an unapproved use, which could result in significant fines or penalties under other statutory authorities, such as laws prohibiting false claims for reimbursement. Recent court decisions have impacted the FDA's enforcement activity regarding off-label promotion in light of First Amendment considerations; however, there are still significant risks in this area in part due to the potential False Claims Act exposure.

We are subject to complex and evolving U.S. and foreign laws and regulations regarding privacy, data protection, and other matters. Many of these laws and regulations are subject to change and uncertain interpretation, and could result in claims, changes to our business practices, monetary penalties, increased cost of operations, or declines in user growth or engagement, or otherwise harm our business.

We are subject to a number of foreign, federal and state laws and regulations protecting the use and confidentiality of certain patient health and personal information, including patient records, and restricting the use and disclosure of that protected information. These laws include foreign, federal and state medical privacy laws, breach notification laws and foreign, federal and state consumer protection laws.

In addition, foreign data protection, privacy, and other laws and regulations can be more restrictive than those in the United States. For example, data localization laws in some countries generally mandate that certain types of data collected in a particular country be stored and/or processed within that country. We could be subject to audits in Europe and around the world, particularly in the areas of consumer and data protection, as we continue to grow and expand our operations. Legislators and regulators may make legal and regulatory changes, or interpret and apply existing laws, in ways that make our products less useful to our customers, require us to incur substantial costs, expose us to unanticipated civil or criminal liability, or cause us to change our business practices. These changes or increased costs could negatively impact our business and results of operations in material ways.

In the ordinary course of our business, we collect and store sensitive data, such as our proprietary business information and that of our clients as well as personally identifiable information of our customers, including full names, social security numbers, addresses, and birth dates, in our data centers and on our networks. Our employees may also have access to and may use personal health information in the ordinary course of our business. The secure processing, maintenance and transmission of this information is critical to our operations. Despite our security measures and business controls, our information technology and infrastructure may be vulnerable to attacks by hackers, breaches due to employee, contractor or vendor error, or malfeasance or other disruptions or subject to the inadvertent or intentional unauthorized release of information. Any such occurrence could compromise our networks and the information stored thereon could be accessed, publicly disclosed, lost or stolen. Any such access, disclosure or other loss of information could (i) result in legal claims or proceedings, and liability

under laws that protect the privacy of personal information and regulatory penalties, (ii) disrupt our operations and the services we provide to our clients and (iii) damage our reputation, any of which could adversely affect our profitability, revenue and competitive position.

As we grow and expand our administrative, customer support or IT support services, we may also utilize the services of personnel and contractors located outside of the United States to perform certain functions. While we make every effort to review our applicable contracts and other payor requirements, a local, state, or federal government agency or one of our customers may find the use of offshore resources to be a violation of a legal or contractual requirement, which could result in termination of the contractual relationship, penalties, or changes in our business operations that could adversely affect our business, financial condition, and results of operations. Additionally, while we have implemented industry standard security measures for offshore access to protected health information and other personal information, unauthorized access or disclosure of such information by offshore personnel may result in (i) legal claims or proceedings, and liability under laws that protect the privacy of personal information and regulatory penalties, (ii) a disruption of our operations and the services we provide to our clients or (iii) damage to our reputation, any of which could adversely affect our profitability, revenue and competitive position.

Security breaches and other disruptions could compromise our information and expose us to liability, which would cause our business and reputation to suffer and could subject us to substantial liabilities.

The Administrative Simplification Provisions of the Health Insurance Portability and Accountability Act, or HIPAA, as amended, and implementing regulations, extensively regulate the use and disclosure of individually identifiable health information, known as "protected health information," and require covered entities, including health plans and most health care providers, to implement administrative, physical and technical safeguards to protect the security of such information. Certain provisions of the security and privacy regulations apply to business associates (entities that handle protected health information on behalf of covered entities), and business associates are subject to direct liability for violation of these provisions. In addition, a covered entity may be subject to penalties as a result of a business associate violating HIPAA, if the business associate is found to be an agent of the covered entity.

Covered entities must report breaches of unsecured protected health information to affected individuals without unreasonable delay and notification must also be made to the U.S. Department of Health & Human Services, Office for Civil Rights, or OCR and, in certain situations involving large breaches, to the media. Various U.S. state laws and regulations may also require us to notify affected individuals and state agencies in the event of a data breach involving individually identifiable information.

Violations of the HIPAA privacy and security regulations may result in criminal and civil penalties. The OCR enforces the regulations and performs compliance audits. In addition to enforcement by OCR, state attorneys general are authorized to bring civil actions seeking either injunction or damages in response to violations that threaten the privacy of state residents. OCR may resolve HIPAA violations through informal means, such as allowing a covered entity to implement a corrective action plan, but OCR has the discretion to move directly to impose monetary penalties and is required to impose penalties for violations resulting from willful neglect. We follow and maintain a HIPAA compliance plan, which we believe complies with the HIPAA privacy and security regulations, but there can be no assurance that OCR or other regulators will agree. The HIPAA privacy regulations and security regulations have and will continue to impose significant costs on us in order to comply with these standards.

There are numerous other laws and legislative and regulatory initiatives at the federal and state levels addressing privacy and security concerns. We also remain subject to federal or state privacy-related laws that are more restrictive than the privacy regulations issued under HIPAA. These laws vary and could impose additional penalties. For example, the Federal Trade Commission uses its consumer protection authority to initiate enforcement actions in response to alleged privacy violations and data breaches. California recently enacted the California Consumer Privacy Act, or CCPA, which goes into effect January 1, 2020. The CCPA, among other things, creates new data privacy obligations for covered companies and provides new privacy rights to California residents, including the right to opt out of certain disclosures of their information. The CCPA also creates a private right of action with statutory damages for certain data breaches, thereby potentially increasing risks associated with a data breach. Legislators have stated that they intend to propose amendments to the CCPA before it goes into effect, and the California Attorney General will issue clarifying regulations. It remains unclear what, if any, modifications will be made to this legislation or how it will be interpreted. The effects of the CCPA potentially are significant, however, and may require us to modify our data processing practices, and may cause us to incur substantial costs and expenses to comply.

We are also subject to laws and regulations in foreign countries covering data privacy and other protection of health and employee information that may be more onerous than corresponding U.S. laws, including in particular the laws of Europe.

For instance, in the European Union, increasingly stringent data protection and privacy rules that have and will continue to have substantial impact on the use of patient data across the healthcare industry became effective in May 2018. The EU General Data Protection Regulation, or GDPR, applies across the European Union and includes, among other things, a requirement for prompt notice of data breaches to data subjects and supervisory authorities in certain circumstances and

significant fines for non-compliance. The GDPR fine framework can be up to 20 million euros, or up to 4 % of the company's total global turnover of the preceding fiscal year, whichever is higher. The GDPR also requires companies processing personal data of individuals residing in the European Union to comply with EU privacy and data protection rules, even if the company itself does not have a physical presence in the European Union. Noncompliance could result in the imposition of fines, penalties, or orders to stop noncompliant activities. Due to the strong consumer protection aspects of the GDPR, companies subject to its purview are allocating substantial legal costs to the development of necessary policies and procedures and overall compliance efforts. We expect continued costs associated with maintaining compliance with GDPR into the future, and these provisions as interpreted by EU agencies, could negatively impact our business, financial condition and results of operations.

Cybersecurity risks and cyber incidents could result in the compromise of confidential data or critical data systems and give rise to potential harm to customers, remediation and other expenses, expose us to liability under HIPAA, consumer protection laws, or other common law theories, subject us to litigation and federal and state governmental inquiries, damage our reputation, and otherwise be disruptive to our business and operations.

Cyber incidents can result from deliberate attacks or unintentional events. We collect and store on our networks sensitive information, including intellectual property, proprietary business information and personally identifiable information of our customers. The secure maintenance of this information and technology is critical to our business operations. We have implemented multiple layers of security measures to protect the confidentiality, integrity and availability of this data and the systems and devices that store and transmit such data. We utilize current security technologies, and our defenses are monitored and routinely tested internally and by external parties. Despite these efforts, threats from malicious persons and groups, new vulnerabilities and advanced new attacks against information systems create risk of cybersecurity incidents. These incidents can include, but are not limited to, gaining unauthorized access to digital systems for purposes of misappropriating assets or sensitive information, corrupting data, or causing operational disruption. Because the techniques used to obtain unauthorized access, disable or degrade service, or sabotage systems change frequently and may not immediately produce signs of intrusion, we may be unable to anticipate these incidents or techniques, timely discover them, or implement adequate preventative measures.

These threats can come from a variety of sources, ranging in sophistication from an individual hacker to malfeasance by employees, consultants or other service providers to state-sponsored attacks. Cyber threats may be generic, or they may be custom-crafted against our information systems. Over the past several years, cyber-attacks have become more prevalent and much harder to detect and defend against. Our network and storage applications, as well as those of our contractors, may be vulnerable to cyber-attack, malicious intrusion, malfeasance, loss of data privacy or other significant disruption and may be subject to unauthorized access by hackers, employees, consultants or other service providers. In addition, hardware, software or applications we develop or procure from third parties may contain defects in design or manufacture or other problems that could unexpectedly compromise information security. Unauthorized parties may also attempt to gain access to our systems or facilities through fraud, trickery or other forms of deceiving our employees, contractors and temporary staff.

There can be no assurance that we will not be subject to cybersecurity incidents that bypass our security measures, impact the integrity, availability or privacy of personal health information or other data subject to privacy laws or disrupt our information systems, devices or business, including our ability to deliver services to our customers. As a result, cybersecurity, physical security and the continued development and enhancement of our controls, processes and practices designed to protect our enterprise, information systems and data from attack, damage or unauthorized access remain a priority for us. As cyber threats continue to evolve, we may be required to expend significant additional resources to continue to modify or enhance our protective measures or to investigate and remediate any cybersecurity vulnerabilities. The occurrence of any of these events could result in:

- harm to customers;
- business interruptions and delays;
- the loss, misappropriation, corruption or unauthorized access of data;
- litigation, including potential class action litigation, and potential liability under privacy, security and consumer protection laws or other applicable laws;
- reputational damage;
- increase to insurance premiums; and
- foreign, federal and state governmental inquiries, any of which could have a material, adverse effect on our financial position and results of operations and harm our business reputation.

Failure to protect our information technology infrastructure against cyber-based attacks, network security breaches, service interruptions, or data corruption could significantly disrupt our operations and adversely affect our business and operating results.

We rely on information technology and telephone networks and systems, including the Internet, to process and transmit sensitive electronic information and to manage or support a variety of business processes and activities, including sales, billing, customer service, procurement and supply chain, manufacturing, and distribution. We use enterprise information technology systems to record, process, and summarize financial information and results of operations for internal reporting purposes and to comply with regulatory financial reporting, legal, and tax requirements. Our information technology systems, some of which are managed by third-parties, may be susceptible to damage, disruptions or shutdowns due to computer viruses, ransomware or other malware, attacks by computer hackers, failures during the process of upgrading or replacing software, databases or components thereof, power outages, hardware failures, telecommunication failures, user errors or catastrophic events. Although we have developed systems and processes that are designed to protect customer information and prevent data loss and other security breaches, including systems and processes designed to reduce the impact of a security breach at a third-party vendor, such measures cannot provide absolute security. If our systems are breached or suffer severe damage, disruption or shutdown and we are unable to effectively resolve the issues in a timely manner, our business and operating results may significantly suffer and we may be subject to litigation, government enforcement actions and other actions for which we could face financial liability and other adverse consequences which may include:

- additional government oversight of our operations;
- loss of existing customers;
- difficulty in attracting new customers;
- problems in determining product cost estimates and establishing appropriate pricing;
- difficulty in preventing, detecting, and controlling fraud;
- disputes with customers, physicians, and other health care professionals;
- increases in operating expenses, incurrence of expenses, including remediation costs;
- loss of revenues (including through loss of coverage or reimbursement);
- product development delays;
- disruption of key business operations; and
- diversion of attention of management and key information technology resources.

The failure to comply with U.S. Foreign Corrupt Practices Act and similar worldwide anti-bribery laws in non-U.S. jurisdictions could materially adversely affect our business and result in civil and/or criminal sanctions.

The U.S. Foreign Corrupt Practices Act, the UK Bribery Act and similar worldwide anti-bribery laws in non-U.S. jurisdictions generally prohibit companies and their intermediaries from making improper payments to non-U.S. government officials and, in some instances, other persons for the purpose of obtaining or retaining business. Because of the predominance of government-sponsored healthcare systems around the world, most of our customer relationships outside of the United States are with governmental entities and are therefore potentially subject to such anti-bribery laws. Global enforcement of anti-corruption laws has increased substantially in recent years, with more frequent voluntary self-disclosures by companies, aggressive investigations and enforcement proceedings by U.S. and foreign governmental agencies, and assessment of significant fines and penalties against companies and individuals. Our international operations create the risk of unauthorized payments or offers of payments by one of our employees, consultants, sales agents, or distributors, because these parties are not always subject to our direct oversight and control. It is our policy to implement safeguards to educate our employees and agents on these legal requirements and discourage improper practices. However, our existing safeguards and any future improvements may prove to be less than effective, and our employees, consultants, sales agents, or distributors may engage in conduct for which we might be held responsible. In addition, the government agencies may seek to hold us liable for successor liability for anti-corruption law violations committed by any companies in which we invest or that we acquire. Any alleged or actual violations of these regulations may subject us to government scrutiny, severe criminal or civil sanctions and other liabilities, including exclusion from government contracting, and could disrupt our business, and result in a material adverse effect on our business, financial condition, and results of operations.

The majority of our operations are conducted at facilities in San Diego, California and Mesa, Arizona. Any disruption at these facilities could increase our expenses.

We take precautions to safeguard our facilities, which include manufacturing protocols, insurance, health and safety protocols, and off-site storage of data. However, a natural or man-made disaster, such as fire, flood, earthquake, act of

terrorism, cyber-attack or other disruptive event could cause substantial delays in our operations, damage or destroy our manufacturing equipment, inventory, or records and cause us to incur additional expenses. Earthquakes are of particular significance since our primary manufacturing facilities in California are located in an earthquake-prone area. In the event our existing manufacturing facilities or equipment are affected by man-made or natural disasters, we may be unable to manufacture products for sale or meet customer demands or sales projections. If our manufacturing operations were curtailed or ceased, it would seriously harm our business. The insurance we maintain against fires, floods, earthquakes and other natural disasters and similar events may not be adequate to cover our losses in any particular case.

Continued expansion of our operations in our facility in Mesa may not be scaled at a pace sufficient to ensure that we can manufacture one or more of our continuous glucose monitoring products in quantities sufficient to meet market demand.

Our facility in Mesa, Arizona is designed to manufacture current and next-generation sensors and transmitters, but may not be scaled quickly enough to permit us to manufacture one or more of our CGM products in quantities sufficient to meet market demand. There are risks associated with continued expansion of our manufacturing capacity in Mesa that include but are not limited to contractor issues and delays, licensing and permitting delays or rejections, limitations and delays on the installation of new or custom-ordered equipment, issues associated with validating such equipment, and processes or other aspects of ensuring we manufacture our products in compliance with current Good Manufacturing Practice requirements.

Our products may not continue to achieve market acceptance.

We expect that sales of our G4 PLATINUM system, which consists of a handheld receiver, reusable transmitter and disposable sensor, and our G5 Mobile and G6 systems, which consist of a handheld receiver, reusable transmitter, disposable sensors and a smartphone application that securely identifies, receives, deciphers and displays information transmitted by the transmitter, will account for substantially all of our product revenue for the foreseeable future. If and when we receive FDA or other regulators' approval for and begin commercialization of our next-generation continuous glucose monitoring systems and sensors, we expect most patients will migrate onto those systems. Notwithstanding our prior experience in selling our products, we might be unable to successfully expand the commercialization of our products on a wide scale for a number of reasons, including:

- the FDA authorization to market our G6 system in the United States in March 2018 means that we have limited experience selling our G6 system;
- our G6 system prompts the user to replace the sensor no later than the tenth day, which might make it more expensive for users;
- widespread market acceptance of our products by physicians and people with diabetes will largely depend on our ability to demonstrate their relative safety, effectiveness, reliability, cost-effectiveness and ease of use;
- the limited size of our sales force;
- we may not have sufficient financial or other resources to adequately expand the commercialization efforts for our products;
- our FDA and other regulatory reviews and/or submissions may be delayed, or approved with limited product labeling;
- we may not be able to manufacture our products in commercial quantities or at an acceptable cost;
- people with diabetes do not generally receive broad reimbursement from third-party payors for their purchase of CGM products since many payors require that a policy holder meet specific medical criteria to qualify for reimbursement, which may reduce widespread access to or use of our products;
- the uncertainties associated with establishing and qualifying new manufacturing facilities;
- people with diabetes will need to incur the costs of our systems in addition to single-point finger stick devices;
- the relative immaturity of the continuous glucose monitoring market internationally, and the general absence of international reimbursement of continuous glucose monitoring devices by third-party payors and government healthcare providers outside the United States;
- the introduction and market acceptance of competing products and technologies;
- our inability to obtain sufficient quantities of supplies at appropriate quality levels from our single-source and other key suppliers;
- our inability to manufacture products that perform in accordance with expectations of consumers; and
- rapid technological change may make our technology and our products obsolete.

In addition to the risks outlined above, the G6 has improved performance and is being adopted more quickly than anticipated. There is the risk that consumers will stop purchasing our G4 PLATINUM or G5 Mobile systems in preference for the G6, or that regulatory authorities will determine that the G4 PLATINUM or G5 Mobile systems are not as effective as the G6 and may change marketing approval, reimbursement or the extent of coverage for these products. Our G4 PLATINUM, G5 Mobile and G6 systems are more invasive than many other self-monitored glucose testing systems, including single-point finger stick devices, and people with diabetes may be unwilling to insert a sensor in their body, especially if their current diabetes management involves no more than two finger sticks per day. Moreover, people with diabetes may not perceive the benefits of continuous glucose monitoring and may be unwilling to change their current treatment regimens. In addition, physicians tend to be slow to change their medical treatment practices because of perceived liability risks arising from the use of new products. Physicians may not recommend or prescribe our products unless and until (i) there is more long-term clinical evidence to convince them to alter their existing treatment methods, (ii) there are additional recommendations from prominent physicians that our products are effective in monitoring glucose levels and (iii) reimbursement or insurance coverage is more widely available. We cannot predict when, if ever, physicians and people with diabetes may adopt more widespread use of continuous glucose monitoring systems, including our systems. If our systems do not achieve and maintain an adequate level of acceptance by people with diabetes, physicians and healthcare payors, we may not generate significant product revenue and we may not become profitable.

Current uncertainty in global economic and political conditions makes it particularly difficult to predict product demand and other related matters and makes it more likely that our actual results could differ materially from expectations.

Our operations and performance depend on worldwide economic and political conditions. These conditions have been adversely impacted by continued global economic uncertainty, political instability and military hostilities in multiple geographies, concerns over the potential downgrade of U.S. sovereign debt and continued sovereign debt, monetary and financial uncertainties in Europe and other foreign countries. These include potential reductions in the overall stability and suitability of the Euro as a single currency, given the economic and political challenges facing individual Eurozone countries. These conditions have made and may continue to make it difficult for our customers and potential customers to afford our products, and could cause our customers to stop using our products or to use them less frequently. If that were to occur, our revenue may decrease and our performance may be negatively impacted. In addition, the pressure on consumers to absorb more of their own health care costs has resulted in some cases in higher deductibles and limits on durable medical equipment, which may cause seasonality in purchasing patterns. Furthermore, during economic uncertainty, our customers have had job losses and may continue to have issues gaining timely access to sufficient health insurance or credit, which could result in their unwillingness to purchase products or impair their ability to make timely payments to us. We cannot predict the reoccurrence of any economic slowdown or the strength or sustainability of the economic recovery, worldwide, in the United States, or in our industry. These and other economic factors could have a material adverse effect on our business, financial condition and results of operations.

We depend on clinical investigators and clinical sites to enroll patients in our clinical trials and other third parties to manage the trials and to perform related data collection and analysis, and, as a result, we may face costs and delays that are outside of our control.

We rely on clinical investigators and clinical sites to enroll patients in our clinical trials, and other third parties to manage the trial and to perform related data collection and analysis. However, we may not be able to control the amount and timing of resources that clinical sites may devote to our clinical trials. If these clinical investigators and clinical sites fail to enroll a sufficient number of patients in our clinical trials or fail to ensure compliance by patients with clinical protocols or fail to comply with regulatory requirements, we will be unable to complete these trials, which could prevent us from obtaining regulatory approvals for our products. Our agreements with clinical investigators and clinical sites for clinical testing place substantial responsibilities on these parties and, if these parties fail to perform as expected, our trials could be delayed or terminated. If these clinical investigators, clinical sites or other third parties do not carry out their contractual duties or obligations or fail to meet expected deadlines, or if the quality or accuracy of the clinical data they obtain is compromised due to their failure to adhere to our clinical protocols, regulatory requirements or for other reasons, our clinical trials may be extended, delayed or terminated, or the clinical data may be rejected by the FDA, and we may be unable to obtain regulatory approval for, or successfully commercialize, our products.

We may be liable for contamination or other harm caused by materials that we handle, and changes in environmental regulations could cause us to incur additional expense.

Our research and development and clinical processes involve the handling of potentially harmful biological materials as well as hazardous materials. We are subject to international and domestic (including federal, state and local) laws, rules and regulations governing the use, handling, storage and disposal of hazardous and biological materials and we incur expenses relating to compliance with these laws and regulations. If violations of environmental, health and safety laws occur, we could

be held liable for damages, penalties and costs of remedial actions. These expenses or this liability could have a significant negative impact on our financial condition. We may violate environmental, health and safety laws in the future as a result of human error, equipment failure or other causes. Environmental laws could become more stringent over time, imposing greater compliance costs and increasing risks and penalties associated with violations. We are subject to potentially conflicting and changing regulatory agendas of political, business and environmental groups. Changes to or restrictions on permitting requirements or processes, hazardous or biological material storage or handling might require an unplanned capital investment or relocation. Failure to comply with new or existing laws or regulations could harm our business, financial condition and results of operations.

We are subject to a variety of risks due to our international operations that could adversely affect our business, our operations or profitability and operating results.

Our operations in countries outside the United States, which accounted for approximately 21% of our revenues for the twelve months ended December 31, 2018, are accompanied by certain financial and other risks. In addition to opening offices in the United Kingdom, Germany, Canada, and the Philippines, in connection with distributor acquisitions and otherwise, we intend to continue to pursue growth opportunities in sales outside the United States, especially in Europe and Asia (including Japan and Korea), and we may increase our use of administrative and support functions from locations outside the United States, which could expose us to greater risks associated with our sales and operations. As we pursue opportunities outside the United States, we may become more exposed to these risks and our ability to scale our operations effectively may be affected. Additionally, we may experience difficulties in scaling these functions from locations outside the United States and may not experience the expected cost efficiencies.

Our profitability and international operations are, and will continue to be, subject to a number of risks and potential costs, including:

- local product preferences and product requirements;
- longer-term receivables than are typical in the United States;
- fluctuations in foreign currency exchange rates;
- less intellectual property protection in some countries outside the United States than exists in the United States;
- trade protection measures and import and export licensing requirements;
- workforce instability;
- fluctuations in trade policy and tariff regulations;
- political and economic instability; and
- the potential payment of U.S. income taxes on certain earnings of our subsidiaries outside the United States upon repatriation.

While it is impossible for us to predict whether these and other proposals will be implemented, or how they will ultimately impact us, they may materially impact our results of operations if, for example, our profits earned abroad are subject to U.S. income tax, or we are otherwise disallowed deductions as a result of these profits.

As another example, changes in foreign currency exchange rates may reduce the reported value of our foreign currency denominated revenues, expenses, and cash flows. We cannot predict changes in currency exchange rates, the impact of exchange rate changes, nor the degree to which we will be able to manage the impact of currency exchange rate changes.

As a final example, on June 23, 2016, the United Kingdom, or U.K., held a referendum in which voters approved an exit from the European Union, commonly referred to as “Brexit.” As a result of the referendum, the U.K. government is negotiating the terms of the U.K.’s future relationship with the European Union. Although it is unknown what those terms will be, it is possible that there will be greater restrictions on imports and exports and on the movement of people between the U.K. and European Union countries, and increased regulatory complexities.

Failure to obtain any required regulatory authorization in foreign jurisdictions will prevent us from marketing our products abroad.

We conduct limited commercial and marketing efforts in Canada, Europe, Australia, New Zealand, Asia, Latin America, the Middle East and Africa with respect to our continuous glucose monitoring systems and may seek to market our products in other regions in the future. Outside the United States, we can market a product only if we receive a marketing authorization and, in some cases, pricing approval, from the appropriate regulatory authorities. The authorization and/or approval procedure varies among countries and can involve additional testing, and the time required to obtain any required authorization or approval may differ from that required to obtain FDA marketing authorization(s). The foreign regulatory authorization or

approval process may include all of the risks associated with obtaining FDA marketing authorization(s) in addition to other risks. We may not obtain foreign regulatory authorizations or approvals on a timely basis, if at all. Obtaining a marketing authorization from the FDA does not ensure authorization or approval by regulatory authorities in other countries, and authorization or approval by one foreign regulatory authority does not ensure authorization or approval by regulatory authorities in other foreign countries or by the FDA. In addition, in order to obtain the authorization to market our products in certain foreign jurisdictions, we may need to obtain a Certificate to Foreign Government from the FDA. The FDA may refuse to issue a Certificate to Foreign Government in certain instances, including without limitation, during the pendency of any outstanding warning letter. As a result, we may not be able to file for regulatory approvals or marketing authorizations and may not receive necessary approvals or authorizations to commercialize our products in any market outside the United States on a timely basis, or at all.

Our success will depend on our ability to attract and retain our personnel, while controlling labor costs.

We depend to a significant degree on our senior management, especially Kevin Sayer, our President and Chief Executive Officer. Our success will depend on our ability to retain our senior management and to attract and retain qualified personnel in the future, including sales persons, scientists, clinicians, engineers and other highly skilled personnel. Competition for senior management personnel, as well as sales persons, scientists, clinicians and engineers, is intense and we may not be able to retain our personnel. The loss of the services of members of our senior management, scientists, clinicians or engineers could prevent the implementation and completion of our objectives, including the commercialization of our current products and the development and introduction of additional products. The loss of a member of our senior management or our professional staff would require the remaining executive officers to divert immediate and substantial attention to seeking a replacement. Each of our officers may terminate their employment at any time without notice and without cause or good reason. Additionally, volatility or a lack of positive performance in our stock price may adversely affect our ability to retain key employees.

We expect to continue to expand our operations and grow our research and development, manufacturing, sales and marketing, product development and administrative operations. We expect this expansion to place a significant strain on our management and it will require hiring a significant number of qualified personnel. Accordingly, recruiting and retaining such personnel will be critical to our success. There is intense competition from other companies and research and academic institutions for qualified personnel in the areas of our activities. If we fail to identify, attract, retain and motivate these skilled personnel, we may be unable to continue our development and commercialization activities.

We may undertake a reorganization of our workforce, which may result in a temporary reduction in the number of employees in certain locations. We would undertake a reorganization to reduce operating expenses, though we cannot guarantee any specific amount of long-term cost savings. Further, the turnover in our employee base could result in operational and administrative inefficiencies, which could adversely impact the results of our operations, stock price and customer relationships, and could make recruiting for future management and other positions more difficult.

We may require additional funding to continue the commercialization of our G4 PLATINUM, G5 Mobile and G6 systems, or the development and commercialization of our future generation and other continuous glucose monitoring systems, including our sensor augmented insulin pump systems developed in collaboration with our pump partners and other partners.

Our operations have consumed substantial amounts of cash since inception. We expect to continue to spend substantial amounts on commercialization of our products, including growth of our manufacturing capacity, and on research and development, including conducting clinical trials for our next-generation ambulatory continuous glucose monitoring sensors and systems. Although we raised $389.0 million in net proceeds through the private sale of our convertible notes in June 2017, $75.0 million of which was used to repay our credit facility, $836.6 million in net proceeds through the private sale of our convertible notes in November 2018, $100.0 million of which we used to purchase shares of our common stock, and now have $195.6 million available to us under our credit facility (as reduced by our outstanding letters of credit), we may need funds to continue the commercialization of our current products and to develop and commercialize our next-generation sensors and systems. Additional financing may not be available on a timely basis on terms acceptable to us, or at all. Any additional financing may be dilutive to stockholders or may require us to grant a lender a security interest in our assets. The amount of funding we may need will depend on many factors, including:

- the revenue generated by sales of our products and other future products;
- the costs, timing and risks of delay of additional regulatory approvals;
- the expenses we incur in manufacturing, developing, selling and marketing our products;
- our ability to scale our manufacturing operations to meet demand for our current and any future products;
- the costs to produce our continuous glucose monitoring systems;

- the costs of filing, prosecuting, defending and enforcing any patent claims and other intellectual property rights;
- the rate of progress and cost of our clinical trials and other development activities;
- the success of our research and development efforts;
- the emergence of competing or complementary technologies;
- the terms and timing of any collaborative, licensing and other arrangements that we may establish;
- the cost of ongoing compliance with legal and regulatory requirements, and third-party payors' policies;
- the cost of obtaining and maintaining regulatory or payor clearance or approval for our current or future products including those integrated with other companies' products; and
- the acquisition of business, products and technologies, although we currently have no commitments or agreements relating to any of these types of transactions.

If adequate funds are not available, we may not be able to commercialize our products at the rate we desire and we may have to delay development or commercialization of our products or license to third parties the rights to commercialize products or technologies that we would otherwise seek to commercialize. We also may have to reduce sales, marketing, customer support or other resources devoted to our products. Any of these factors could harm our business and financial condition.

We may face risks associated with acquisitions of companies, products and technologies and our business could be harmed if we are unable to address these risks.

If we are presented with appropriate opportunities, we could acquire or make other investments in complementary companies, products or technologies. We may not realize the anticipated benefit of our acquisitions, or the realization of the anticipated benefits may require greater expenditures than anticipated by us. We will likely face risks, uncertainties and disruptions associated with the integration process, including difficulties in the integration of the operations and services of any acquired company, integration of acquired technology with our products, diversion of our management's attention from other business concerns, the potential loss of key employees or customers of the acquired businesses and impairment charges if future acquisitions are not as successful as we originally anticipate. If we fail to successfully integrate other companies, products or technologies that we acquire, our business could be harmed. Furthermore, we may have to incur debt or issue equity or equity-linked securities to pay for any future acquisitions or investments, the issuance of which could be dilutive to our existing stockholders. In addition, our operating results may suffer because of acquisition-related costs or amortization expenses or charges relating to acquired intangible assets.

Compliance with regulations relating to public company corporate governance matters and reporting is time consuming and expensive.

Many laws and regulations, notably those adopted in connection with the Sarbanes-Oxley Act of 2002, the Dodd-Frank Wall Street Reform and Consumer Protection Act, new SEC regulations and The Nasdaq Stock Market listing rules, impose obligations on public companies, such as ours, which have increased the scope, complexity and cost of corporate governance, reporting and disclosure practices. Compliance with these laws and regulations, including enhanced new disclosures, has required and will continue to require substantial management time and oversight and the incurrence of significant accounting and legal costs. The effects of new laws and regulations remain unclear and will likely require substantial management time and oversight and require us to incur significant additional accounting and legal costs. Additionally, changes to existing accounting rules or standards, such as the potential requirement that U.S. registrants prepare financial statements in accordance with International Financial Reporting Standards, may adversely impact our reported financial results and business, and may require us to incur greater accounting fees.

If we are unable to successfully maintain effective internal control over financial reporting, investors may lose confidence in our reported financial information and our stock price and our business may be adversely impacted.

As a public company, we are required to maintain internal control over financial reporting and our management is required to evaluate the effectiveness of our internal control over financial reporting as of the end of each fiscal year. If we are not successful in maintaining effective internal control over financial reporting, there could be inaccuracies or omissions in the consolidated financial information we are required to file with the SEC. Additionally, even if there are no inaccuracies or omissions, we will be required to publicly disclose the conclusion of our management that our internal control over financial reporting or disclosure controls and procedures are not effective. These events could cause investors to lose confidence in our reported financial information, adversely impact our stock price, result in increased costs to remediate any deficiencies, attract regulatory scrutiny or lawsuits that could be costly to resolve and distract management's attention, limit our ability to access the capital markets or cause our stock to be delisted from The Nasdaq Stock Market or any other securities exchange on which it is then listed.

We could be subject to changes in our tax rates, new U.S. or international tax legislation or additional tax liabilities.

We are subject to taxes in the United States and numerous foreign jurisdictions, where a number of our subsidiaries are organized. Due to economic and political conditions, tax rates in various jurisdictions may be subject to change. Our effective tax rates could be affected by numerous factors, including changes in the mix of earnings in countries with differing statutory tax rates, changes in the valuation of deferred tax assets and liabilities, and changes in tax laws or their interpretation, both in and outside the United States.

The U.S. government has recently enacted comprehensive tax legislation that includes significant changes to the taxation of business entities. These changes include, among others, (i) a permanent reduction to the corporate income tax rate, (ii) a partial limitation on the deductibility of business interest expense, (iii) a shift of the U.S. taxation of multinational corporations from a tax on worldwide income to a territorial system (along with certain rules designed to prevent erosion of the U.S. income tax base) and (iv) a one-time tax on accumulated offshore earnings held in cash and illiquid assets, with the latter taxed at a lower rate. The overall impact of this tax reform is uncertain, and our business and financial condition could be adversely affected. In addition, it is uncertain if and to what extent various states will conform to the newly enacted federal tax law.

Our tax returns and other tax matters also are subject to examination by the U.S. Internal Revenue Service and other tax authorities and governmental bodies. We regularly assess the likelihood of an adverse outcome resulting from these examinations to determine the adequacy of our provision for taxes. We cannot guarantee the outcome of these examinations. If our effective tax rates were to increase, particularly in the United States, or if the ultimate determination of our taxes owed is for an amount in excess of amounts previously accrued, our financial condition, operating results and cash flows could be adversely affected.

Valuation of share-based payments, which we are required to perform for purposes of recording compensation expense under authoritative guidance for share-based payment, involves assumptions that are subject to change and difficult to predict.

We record compensation expense in the consolidated statement of operations for share-based payments, such as employee stock options, restricted stock units and employee stock purchase plan shares, using the fair value method. The requirements of the authoritative guidance for share-based payment have and will continue to have a material effect on our future financial results reported under U.S. GAAP and make it difficult for us to accurately predict the impact on our future financial results.

For instance, estimating the fair value of share-based payments is highly dependent on assumptions regarding the future exercise behavior of our employees and changes in our stock price. If there are errors in our input assumptions for our valuations models, we may inaccurately calculate actual or estimated compensation expense for share-based payments.

The authoritative guidance for share-based payment could also adversely impact our ability to provide accurate guidance on our future financial results as assumptions that are used to estimate the fair value of share-based payments are based on estimates and judgments that may differ from period to period. We may also be unable to accurately predict the amount and timing of the recognition of tax benefits associated with share-based payments as they are highly dependent on the exercise behavior of our employees and the price of our stock relative to the exercise price of each outstanding stock option.

For those reasons, among others, the authoritative guidance for share-based payment may create variability and uncertainty in the share-based compensation expense we will record in future periods, which could adversely impact our stock price and increase our expected stock price volatility as compared to prior periods.

Changes in financial accounting standards or practices or existing taxation rules or practices may cause adverse unexpected revenue and/or expense fluctuations and affect our reported results of operations.

A change in accounting standards or practices or a change in existing taxation rules or practices can have a significant effect on our reported results and may even affect our reporting of transactions completed before the change is effective. New accounting pronouncements and taxation rules and varying interpretations of accounting pronouncements and taxation practice have occurred and may occur in the future. The method in which we market and sell our products may have an impact on the manner in which we recognize revenue. In addition, changes to existing rules or the questioning of current practices may adversely affect our reported financial results or the way we conduct our business. Additionally, changes to existing accounting rules or standards, such as the potential requirement that U.S. registrants prepare financial statements in accordance with International Financial Reporting Standards, may adversely impact our reported financial results and business, and may further require us to incur greater accounting fees.

The SEC "conflict minerals" rule has caused us to incur additional expenses, could limit the supply and increase the cost of certain metals used in manufacturing our products, and could make us less competitive in our target markets.

We are required to disclose information related to the origin, source and chain of custody of specified minerals, known as conflict minerals, that are necessary to the functionality or production of products manufactured or contracted to be

manufactured. The requirement mandates companies to obtain sourcing data from suppliers, engage in supply chain due diligence, and file annually with the SEC a specialized disclosure report on Form SD covering the prior calendar year. The rule could limit our ability to source at competitive prices and to secure sufficient quantities of certain minerals (or derivatives thereof) used in the manufacture of our products, specifically tantalum, tin, gold and tungsten, as the number of suppliers that provide conflict-free minerals may be limited. In addition, we have incurred, and may continue to incur, material costs associated with complying with the rule, such as costs related to the determination of the origin, source and chain of custody of the minerals used in our products, the adoption of conflict minerals-related governance policies, processes and controls, and possible changes to products or sources of supply as a result of such activities. Within our supply chain, we may not be able to sufficiently verify the origins of the relevant minerals used in our products through the data collection and due diligence procedures that we implement, which may harm our reputation. Furthermore, we may encounter challenges in satisfying those customers that require that all of the components of our products be certified as conflict free, and if we cannot satisfy these customers, they may choose a competitor's products.

Risks Related to Our Common Stock

Our stock price is highly volatile and investing in our stock involves a high degree of risk, which could result in substantial losses for investors.

Historically, the market price of our common stock, like the securities of many other medical products companies, fluctuates and could continue to be volatile in the future. From January 1, 2018 through February 15, 2019, the closing price of our common stock on the Nasdaq Global Select Market was as high as $152.73 per share and as low as $52.25 per share.

The market price of our common stock is influenced by many factors that are beyond our control, including the following:

- securities analyst coverage or lack of coverage of our common stock or changes in their estimates of our financial performance;
- variations in quarterly operating results;
- future sales of our common stock by our stockholders;
- investor perception of us and our industry;
- announcements by us or our competitors of significant agreements, acquisitions, or capital commitments or product launches or discontinuations;
- changes in market valuation or earnings of our competitors;
- negative business or financial announcements regarding our partners;
- general economic conditions;
- regulatory actions;
- legislation and political conditions; and
- terrorist acts.

Please also refer to the factors described elsewhere in this "Risk Factors" section. In addition, the stock market in general has experienced extreme price and volume fluctuations that have often been unrelated and disproportionate to the operating performance of companies in our industry. These broad market and industry factors may materially reduce the market price of our common stock, regardless of our operating performance.

Securities class action litigation has often been brought against public companies that experience periods of volatility in the market prices of their securities. Securities class action litigation could result in substantial costs and a diversion of our management's attention and resources.

If our financial performance fails to meet the expectations of investors and public market analysts, the market price of our common stock could decline.

Our revenues and operating results may fluctuate significantly from quarter to quarter. We believe that period-to-period comparisons of our operating results may not be meaningful and should not be relied on as an indication of our future performance. If quarterly revenues or operating results fall below the expectations of investors or public market analysts, the trading price of our common stock could decline substantially. Factors that might cause quarterly fluctuations in our operating results include:

- our inability to manufacture an adequate supply of product at appropriate quality levels and acceptable costs;
- possible delays in our research and development programs or in the completion of any clinical trials;
- a lack of acceptance of our products in the marketplace by physicians and people with diabetes;

- the inability of customers to receive reimbursements from third-party payors;
- failures to comply with regulatory requirements, which could lead to withdrawal of products from the market;
- our failure to continue the commercialization of any of our continuous glucose monitoring systems;
- competition;
- inadequate financial and other resources; and
- global and political economic conditions, political instability and military hostilities.

Failure to comply with covenants in our revolving credit agreement with JPMorgan Chase Bank and other syndicate lenders could result in our inability to borrow additional funds and adversely impact our business.

We have entered into a revolving credit agreement and a pledge and security agreement with JPMorgan Chase Bank and four other lenders to fund our business operations. These agreements impose numerous financial and other restrictive covenants on our operations, including covenants relating to our general profitability and our liquidity. As of December 31, 2018, we were in compliance with the covenants imposed by the loan and security agreement. If we violate these or any other covenants, any outstanding amounts under these agreements could become due and payable prior to their stated maturity dates, each lender could proceed against any collateral in our operating accounts and our ability to borrow funds in the future may be restricted or eliminated. These restrictions may also limit our ability to borrow additional funds and pursue other business opportunities or strategies that we would otherwise consider to be in our best interests.

Increasing our financial leverage could affect our operations and profitability.

The current maximum available credit under our multi-currency revolving credit facility is $200.0 million. Our leverage ratio may affect the availability to us of additional capital resources as well as our operations in several ways, including:

- the terms on which credit may be available to us could be less attractive, both in the economic terms of the credit and the legal covenants;
- the possible lack of availability of additional credit;
- the potential for higher levels of interest expense to service or maintain our outstanding debt;
- the possibility of additional borrowings in the future to repay our indebtedness when it comes due; and
- the possible diversion of capital resources from other uses.

While we believe we will have the ability to service our debt and obtain additional resources in the future if and when needed, that will depend upon our results of operations and financial position at the time, the then-current state of the credit and financial markets, and other factors that may be beyond our control. Therefore, we cannot give assurances that sufficient credit will be available on terms that we consider attractive, or at all, if and when necessary or beneficial to us.

The issuance of shares by us in the future or sales of shares by our stockholders may cause the market price of our common stock to drop significantly, even if our business is performing well.

This issuance of shares by us in the future, including by conversion of our convertible notes in certain circumstances, the issuance of shares of our common stock to partners, including up to 2,025,036 shares of our common stock that we may issue to Verily and Onduo LLC pursuant to the Restated Collaboration Agreement, or sales of shares by our stockholders may cause the market price of our common stock to decline, perhaps significantly, even if our business is performing well. The market price of our common stock could also decline if there is a perception that sales of our shares are likely to occur in the future. This might also make it more difficult for us to sell equity securities in the future at a time and at a price that we deem appropriate. Also, we may issue securities in connection with future financings and acquisitions, and those shares could dilute the holdings of other stockholders.

We do not intend to pay dividends for the foreseeable future.

We have never declared or paid cash dividends on our capital stock. We currently intend to retain any future earnings to finance the operation and expansion of our business, and we do not expect to declare or pay any dividends in the foreseeable future and the terms of our credit agreement restrict our ability to declare or pay dividends. As a result, stockholders (including holders of our convertible notes who receive shares of our common stock, if any, upon conversion of their notes) may only receive a return on their investment in our common stock if the market price of our common stock increases.

Anti-takeover effects of our charter documents and Delaware law could make a merger, tender offer or proxy contest difficult, thereby depressing the trading price of our common stock.

In addition, there are provisions in our certificate of incorporation and bylaws, as well as provisions in the Delaware General Corporation Law, that may discourage, delay or prevent a change of control that might otherwise be beneficial to stockholders. For example:

- our Board of Directors may, without stockholder approval, issue shares of preferred stock with special voting or economic rights;
- our stockholders do not have cumulative voting rights and, therefore, each of our directors can only be elected by holders of a majority of our outstanding common stock;
- a special meeting of stockholders may only be called by a majority of our Board of Directors, the Chairman of our Board of Directors, our Chief Executive Officer, our President or our Lead Independent Director;
- our stockholders may not take action by written consent;
- our Board of Directors is divided into three classes, only one of which is elected each year; and
- we require advance notice for nominations for election to the Board of Directors or for proposing matters that can be acted upon by stockholders at stockholder meetings.

Risks Related to Our Debt

We have indebtedness in the form of convertible senior notes, which could adversely affect our financial health and our ability to respond to changes in our business.

In June 2017, we completed an offering of $400.0 million aggregate principal amount of 0.75% convertible senior notes due 2022, or 2022 Notes, which offering we refer to as the 2017 Notes Offering. In November 2018, we completed an offering of $850.0 million aggregate principal amount of 0.75% convertible senior notes due 2023, or 2023 Notes, which offering we refer to as the 2018 Notes Offering. We refer to the 2017 Notes Offering and the 2018 Notes Offering together as the Notes Offerings, and we refer to the 2022 Notes and the 2023 Notes together as the Notes. As a result of the Notes Offerings, we incurred $1.250 billion principal amount of indebtedness, the principal amount of which we may be required to pay at maturity.

Holders of the Notes will have the right to require us to repurchase their notes upon the occurrence of a fundamental change (as defined in the indenture for each of the 2022 Notes and the 2023 Notes) at a purchase price equal to 100% of the principal amount of the notes to be purchased, plus accrued and unpaid interest, if any. In addition, each indenture for the Notes provides that we are required to repay amounts due under each indenture in the event that there is an event of default for the Notes that results in the principal, premium, if any, and interest, if any, becoming due prior to maturity date for the Notes. There can be no assurance that we will be able to repay this indebtedness when due, or that we will be able to refinance this indebtedness on acceptable terms or at all.

As a result of our level of increased debt after the completion of the Notes Offerings:

- our vulnerability to adverse general economic conditions and competitive pressures will be heightened;
- we will be required to dedicate a larger portion of our cash flow from operations to interest payments, limiting the availability of cash for other purposes;
- our flexibility in planning for, or reacting to, changes in our business and industry may be more limited; and
- our ability to obtain additional financing in the future for working capital, capital expenditures, acquisitions, general corporate purposes or other purposes may be impaired.

We cannot be sure that our leverage resulting from the level of increased debt after the completion of the Notes Offerings will not materially and adversely affect our ability to finance our operations or capital needs or to engage in other business activities. In addition, we cannot be sure that additional financing will be available when required or, if available, will be on terms satisfactory to us. Further, even if we are able to obtain additional financing, we may be required to use such proceeds to repay a portion of our debt.

We may be unable to repurchase the Notes upon a fundamental change when required by the holders or repay prior to maturity any accelerated amounts due under the notes upon an event of default or redeem the Notes unless specified conditions are met under our credit facility, and our future debt may contain limitations on our ability to pay cash upon conversion, repurchase or repayment of the Notes.

Holders of the Notes will have the right to require us to repurchase their Notes upon the occurrence of a fundamental change at a purchase price equal to 100% of the principal amount of the Notes to be purchased, plus accrued and unpaid interest, if any, to, but not including, the fundamental change purchase date. In addition, each indenture for the Notes provides that we are required to repay amounts due under each indenture in the event that there is an event of default for the Notes that results in the principal, premium, if any, and interest, if any, becoming due prior to maturity date for the Notes. In addition, upon conversion of the Notes, unless we elect to deliver solely shares of our common stock to settle such conversion (other than cash in lieu of any fractional share), we will be required to make cash payments in respect of the Notes being converted. However, we may not have enough available cash or be able to obtain financing at the time we are required to repurchase Notes surrendered upon a fundamental change or repay prior to maturity any accelerated amounts or pay cash for Notes being converted.

In addition, our ability to purchase the Notes or repay prior to maturity any accelerated amounts under the Notes upon an event of default or pay cash upon conversions of the Notes may be limited by law, by regulatory authority or by agreements governing our indebtedness outstanding at the time, including our credit facility. Under our current credit facility we are only permitted to use cash to purchase the Notes or repay prior to maturity any accelerated amounts under the Notes if we meet certain conditions that are defined under the Credit Agreement. We may not meet these conditions in the future. Our failure to repurchase Notes at a time when the repurchase is required by the respective indenture (whether upon a fundamental change or otherwise under each indenture) or pay cash payable on future conversions of the Notes as required by the indenture would constitute a default under each indenture. A default under each indenture or the fundamental change itself could also lead to a default under agreements governing our existing or future indebtedness, including our credit facility. If the repayment of the related indebtedness were to be accelerated after any applicable notice or grace periods, we may not have sufficient funds to repay the indebtedness, repurchase the Notes or make cash payments upon conversions thereof.

We may still incur substantially more debt or take other actions which would intensify the risks discussed above.

We may incur substantial additional debt in the future, subject to the restrictions contained in our debt instruments, some of which may be secured debt. We are not restricted under the terms of the indentures governing the Notes from incurring additional debt, securing existing or future debt, recapitalizing our debt, or taking a number of other actions that are not limited by the terms of the indenture governing the convertible senior notes that could have the effect of diminishing our ability to make payments on the Notes when due.

The convertible note hedge and warrant transactions may affect the value of the 2023 Notes and our common stock.

In connection with the sale of the 2023 Notes, we entered into convertible note hedge, or the 2023 Note Hedge, transactions with certain financial institutions, or option counterparties. We also entered into warrant transactions with the option counterparties pursuant to which we sold warrants for the purchase of our common stock, or the 2023 Warrants. The 2023 Note Hedge transactions are expected generally to reduce the potential dilution upon any conversion of the 2023 Notes and/or offset any cash payments we are required to make in excess of the principal amount of converted 2023 Notes. The 2023 Warrant transactions could separately have a dilutive effect to the extent that the market price per share of our common stock exceeds the exercise price of the 2023 Warrants, which is $198.38.

The option counterparties and/or their respective affiliates may modify their hedge positions by entering into or unwinding various derivatives with respect to our common stock and/or purchasing or selling our common stock in secondary market transactions prior to the maturity of 2023 Notes (and are likely to do so during any observation period related to a conversion of 2023 Notes, or following any repurchase of Notes by us on any fundamental change repurchase date (as defined in the indenture for the 2023 Notes) or otherwise). This activity could also cause or avoid an increase or a decrease in the market price of our common stock or the 2023 Notes, which could affect note holders' ability to convert the 2023 Notes and, to the extent the activity occurs during any observation period related to a conversion of the 2023 Notes, it could affect the amount and value of the consideration that note holders will receive upon conversion of the 2023 Notes.

The potential effect, if any, of these transactions and activities on the market price of our common stock or the 2023 Notes will depend in part on market conditions and cannot be ascertained at this time. Any of these activities could adversely affect the value of our common stock and the value of the 2023 Notes (and as a result, the value of the consideration, the amount of cash and/or the number of shares, if any, that note holders would receive upon the conversion of the 2023 Notes) and, under certain circumstances, the ability of the note holders to convert the 2023 Notes.

We do not make any representation or prediction as to the direction or magnitude of any potential effect that the transactions described above may have on the price of the 2023 Notes or our common stock. In addition, we do not make any

representation that the option counterparties will engage in these transactions or that these transactions, once commenced, will not be discontinued without notice.

We are subject to counterparty risk with respect to the 2023 Note Hedge transactions.

The option counterparties are financial institutions, and we will be subject to the risk that any or all of them may default under the 2023 Note Hedge transactions. Our exposure to the credit risk of the option counterparties will not be secured by any collateral. Recent global economic conditions have resulted in the actual or perceived failure or financial difficulties of many financial institutions. If an option counterparty becomes subject to insolvency proceedings, we will become an unsecured creditor in those proceedings, with a claim equal to our exposure at that time under our transactions with that option counterparty. Our exposure will depend on many factors but, generally, an increase in our exposure will be correlated to an increase in the market price and in the volatility of our common stock. In addition, upon a default by an option counterparty, we may suffer adverse tax consequences and more dilution than we currently anticipate with respect to our common stock. We can provide no assurances as to the financial stability or viability of the option counterparties.

Servicing our debt requires a significant amount of cash, and we may not have sufficient cash flow from our business to pay our substantial debt.

Our ability to make scheduled payments of the principal of, to pay interest on or to refinance our indebtedness, including the Notes, depends on our future financial condition and operating performance, which is subject to economic, financial, competitive and other factors beyond our control. Our business may not continue to generate cash flow from operations in the future sufficient to satisfy our obligations under the Notes, our existing indebtedness and any future indebtedness we may incur and to make necessary capital expenditures. We may not maintain a level of cash flows from operating activities sufficient to permit us to pay the principal, premium, if any, and interest on (as well as any cash due upon conversion of) our debt, including the Notes.

If we are unable to generate such cash flow, we may be required to adopt one or more alternatives, such as reducing or delaying investments or capital expenditures, selling assets, refinancing or obtaining additional equity capital on terms that may be onerous or highly dilutive. These alternative measures may not be successful and may not permit us to meet our scheduled debt servicing obligations. Further, we may need to refinance all or a portion of our debt on or before maturity, and our ability to refinance the Notes, existing indebtedness or future indebtedness will depend on the capital markets and our financial condition at such time. We may not be able to engage in any of these activities on commercially reasonable terms or at all, which could result in a default on the Notes or our current and future indebtedness.

Our credit facility imposes restrictions on us that may adversely affect our ability to operate our business.

Our credit facility contains restrictive covenants relating to our capital raising activities and other financial and operational matters which may make it more difficult for us to obtain additional capital and to pursue business opportunities, including potential acquisitions. In addition, our credit facility and the agreements governing the notes each contain cross-default provisions whereby a default under one agreement would likely result in cross defaults under agreements covering other borrowings. For example, the occurrence of a default with respect to any indebtedness or any failure to repay debt when due in an amount in excess of $25.0 million that causes such indebtedness to become due prior to its scheduled maturity date would cause a cross default under the indenture governing the Notes. In addition, the occurrence of a default with respect to any indebtedness or any failure to repay debt when due in an amount in excess of $15.0 million that causes such indebtedness to become due prior to its scheduled maturity date would cause a default under our credit facility. The occurrence of a default under any of these borrowing arrangements would permit the holders of the Notes or the lenders under our credit facility to declare all amounts outstanding under those borrowing arrangements to be immediately due and payable. If the Note holders or the trustee under the indenture governing the Notes or the lenders under our credit facility accelerate the repayment of borrowings, we cannot assure you that we will have sufficient assets to repay those borrowings.

Conversion of the Notes will, to the extent we deliver shares upon conversion of such Notes, dilute the ownership interest of existing stockholders, including holders who had previously converted their Notes, or may otherwise depress our stock price.

The conversion of some or all of the Notes will dilute the ownership interests of existing stockholders to the extent we deliver shares upon conversion of any of the Notes. Any sales in the public market of the common stock issuable upon such conversion could adversely affect prevailing market prices of our common stock. In addition, the existence of the Notes may encourage short selling by market participants because the conversion of the Notes could be used to satisfy short positions, or anticipated conversion of the Notes into shares of our common stock could depress our stock price.

The conditional conversion feature of the Notes, if triggered, may adversely affect our financial condition and operating results.

In the event the conditional conversion feature of the Notes is triggered, holders of the Notes will be entitled to convert the Notes at any time during specified periods at their option. If one or more holders elect to convert their Notes, unless we elect to satisfy our conversion obligation by delivering solely shares of our common stock (other than cash in lieu of any fractional share), we would be required to settle a portion or all of our conversion obligation through the payment of cash, which could adversely affect our liquidity. In addition, even if holders of the Notes do not elect to convert their Notes, we could be required under applicable accounting rules to reclassify all or a portion of the outstanding principal of the Notes as a current rather than long-term liability, which would result in a material reduction of our net working capital.

The accounting method for convertible debt securities that may be settled in cash, such as the Notes, may have a material effect on our reported financial results.

Under GAAP, an entity must separately account for the debt component and the embedded conversion option of convertible debt instruments that may be settled entirely or partially in cash upon conversion, such as the Notes, in a manner that reflects the issuer's economic interest cost. The effect of the accounting treatment for such instruments is that the value of such embedded conversion option would be treated as original issue discount for purposes of accounting for the debt component of the Notes, and that original issue discount is amortized into interest expense over the term of the Notes using an effective yield method. As a result, we will be required to record a greater amount of non-cash interest expense because of the amortization of the original issue discount to the Notes' face amount over the term of the Notes and because of the amortization of the debt issuance costs. Accordingly, we will report greater interest expense and lower net income in our financial results because of the recognition of both the current period's amortization of the debt discount and the Notes' coupon interest, which could adversely affect our reported or future financial results, the trading price of our common stock and the trading price of the Notes.

In addition, if the conditional conversion feature of the Notes is triggered, even if holders do not elect to convert their Notes, we could be required under applicable accounting rules to reclassify all or a portion of the outstanding principal of the Notes as a current rather than long-term liability, which would result in a material reduction of our net working capital.

The fundamental change repurchase feature of the Notes may delay or prevent an otherwise beneficial attempt to take over DexCom.

The terms of the Notes require us to repurchase the Notes in the event of a fundamental change. A takeover of DexCom would trigger an option of the holders of the Notes to require us to repurchase the Notes. In addition, if a make-whole fundamental change occurs prior to the maturity date of the Notes, we will in some cases be required to increase the conversion rate for a holder that elects to convert its Notes in connection with such make-whole fundamental change. Furthermore, each indenture for the Notes prohibits us from engaging in certain mergers or acquisitions unless, among other things, the surviving entity assumes our obligations under the notes. These and other provisions of each indenture may have the effect of delaying or preventing a takeover of DexCom.

ITEM 1B. UNRESOLVED STAFF COMMENTS

None.

ITEM 2. PROPERTIES

Our principal locations, their sizes and purposes, and the expiration dates for the leases on the facilities at those locations as of December 31, 2018 are shown in the table below.

Location	Approximate Square Feet	Purpose	Lease Expiration Dates
San Diego, CA	470,900	Laboratory, Manufacturing, Research and Development, Warehouse, General and Administrative, Sales and Marketing	2022 (1)
Mesa, AZ	148,800	General and Administrative, Laboratory, Manufacturing, Warehouse	2028 (2)
All international locations (3)	122,800	EMEA Headquarters, Clinical, Regulatory, Marketing, General and Administrative	2026

(1) Excludes renewals that would be at our option to extend the term of leases for approximately 219,000 square feet of space for two additional five-year terms.
(2) Excludes renewals that would be at our option to extend the term of this lease for four additional five-year terms.
(3) International locations include Canada, the United Kingdom, Germany, Switzerland and the Philippines.

We also lease facilities in a number of smaller domestic locations. We believe our facilities are suitable and adequate for our current and near-term needs, and that we will be able to locate additional facilities as needed.

ITEM 3. LEGAL PROCEEDINGS

On March 28, 2016, AgaMatrix, Inc., or AgaMatrix, filed a patent infringement lawsuit against us in the United States District Court for the District of Oregon, asserting that certain of our products infringe certain patents held by AgaMatrix. On June 6, 2016, AgaMatrix filed a First Amended Complaint asserting the same three patents. On February 24, 2017, the Court granted AgaMatrix's motion to substitute WaveForm Technologies, Inc., or WaveForm, as the new plaintiff following AgaMatrix's transfer of the three patents to its newly formed entity. On August 25, 2016, we filed petitions for *inter partes* review with the Patent Trial and Appeal Board, or PTAB, of the U.S. Patent and Trademark Office seeking a determination that two of the three asserted patents are invalid under U.S. patent law and those petitions were granted on March 6, 2017. On March 8, 2017, we filed a petition for *inter partes* review with the PTAB seeking a determination that the third of the three asserted patents is invalid under U.S. patent law. This petition was granted on September 15, 2017. The PTAB issued a Final Written Decision for each of the first two patents on February 28, 2018, where the PTAB found the majority of asserted claims from the first patent unpatentable and the remaining claims under review not unpatentable. The PTAB found all claims under review from the second patent not unpatentable. We believe the PTAB erred in finding any claims of the first two patents not unpatentable, and appealed the PTAB's decision to the United States Court of Appeals for the Federal Circuit, or Federal Circuit, on March 30, 2018. Briefing of the appeal is complete and we are currently awaiting the dates for oral argument from the Court of Appeals. The PTAB issued a Final Written Decision for the third patent on September 12, 2018, where the PTAB found all claims of the third patent asserted against us in the District of Oregon litigation unpatentable. WaveForm did not appeal this decision. On January 4, 2019, the parties stipulated to the dismissal of all claims and counterclaims regarding the third asserted patent. Most activity in the patent infringement lawsuit against us in the District of Oregon was stayed until the PTAB completed the *inter partes* review proceedings. That stay was lifted on October 10, 2018. The remaining claims and counterclaims will continue with an estimated date of trial in February 2020. It is our position that Waveform's assertions of infringement have no merit.

We have also filed several lawsuits against AgaMatrix. We filed a patent infringement lawsuit against AgaMatrix in the United States District Court for the Central District of California, or C.D. Cal., which is currently on appeal to the Federal Circuit based on a Final Judgment of non-infringement entered by the C.D. Cal. judge on February 23, 2018. AgaMatrix sought attorneys' fees for this lawsuit and as of December 31, 2018 we have accrued an immaterial amount for those fees. On September 15, 2017, we filed a patent infringement lawsuit against AgaMatrix in the United States District Court for the District of Delaware, asserting certain single-point blood glucose monitoring products of AgaMatrix infringe two patents held by us. In addition, on September 18, 2017, we filed a Complaint against AgaMatrix in the International Trade Commission, referred to as the ITC, requesting that the ITC institute an investigation and issue an order excluding certain products of AgaMatrix from importation into or sale in the United States based on AgaMatrix's infringement of the same two patents asserted in the Delaware litigation. On September 14, 2018, AgaMatrix filed two petitions for *inter partes* review for each of the same two patents we asserted in the District of Delaware and the ITC. We filed a response to all four petitions on December

17, 2018. AgaMatrix had requested additional briefing on the matter and the PTAB has authorized both sides to do so. Briefing was completed in January 2019.

Neither the outcome of these lawsuits nor the amount and range of potential loss associated with the lawsuits can be assessed at this time. Other than the attorneys' fees described above, as of December 31, 2018 we have accrued no amounts for contingent losses associated with these suits.

We are subject to various claims, complaints and legal actions that arise from time to time in the normal course of business, including commercial insurance, product liability and employment related matters. In addition, from time to time we may bring claims or initiate lawsuits against various third parties with respect to matters arising out of the ordinary course of our business, including commercial and employment related matters. We do not believe we are party to any currently pending legal proceedings, the outcome of which could have a material adverse effect on our business, financial condition or results of operations. There can be no assurance that existing or future legal proceedings arising in the ordinary course of business or otherwise will not have a material adverse effect on our business, financial condition or results of operations.

ITEM 4. MINE SAFETY DISCLOSURES

Not applicable.

PART II

ITEM 5. MARKET FOR REGISTRANT'S COMMON EQUITY, RELATED STOCKHOLDER MATTERS AND ISSUER PURCHASES OF EQUITY SECURITIES

Market Information for Common Stock

DexCom's common stock is traded on the Nasdaq Global Select Market under the symbol "DXCM." The following table sets forth the high and low intraday per share sales prices reported on Nasdaq for DexCom's common stock for the periods indicated.

	High	Low
Year Ended December 31, 2018		
First Quarter	$ 75.30	$ 51.04
Second Quarter	$ 102.10	$ 69.51
Third Quarter	$ 148.56	$ 92.33
Fourth Quarter	$ 152.14	$ 105.05
	High	**Low**
Year Ended December 31, 2017		
First Quarter	$ 88.80	$ 57.68
Second Quarter	$ 85.32	$ 66.16
Third Quarter	$ 78.92	$ 42.62
Fourth Quarter	$ 62.35	$ 43.74

Stockholders

We had approximately 30 stockholders of record as of February 19, 2019. The number of beneficial owners of our common stock at that date was substantially greater than the number of record holders because a large portion of our common stock is held of record through brokerage firms in "street name."

Dividend Policy

We have never declared or paid any cash dividends on our capital stock. We currently intend to retain any future earnings to finance the operation and expansion of our business, and we do not expect to declare or pay any dividends in the foreseeable future.

Recent Sales of Unregistered Securities

There were no unregistered sales of equity securities which have not been previously disclosed in a quarterly report on Form 10-Q or a current report on Form 8-K during the year ended December 31, 2018.

Purchases of Equity Securities by the Issuer and Affiliated Purchasers

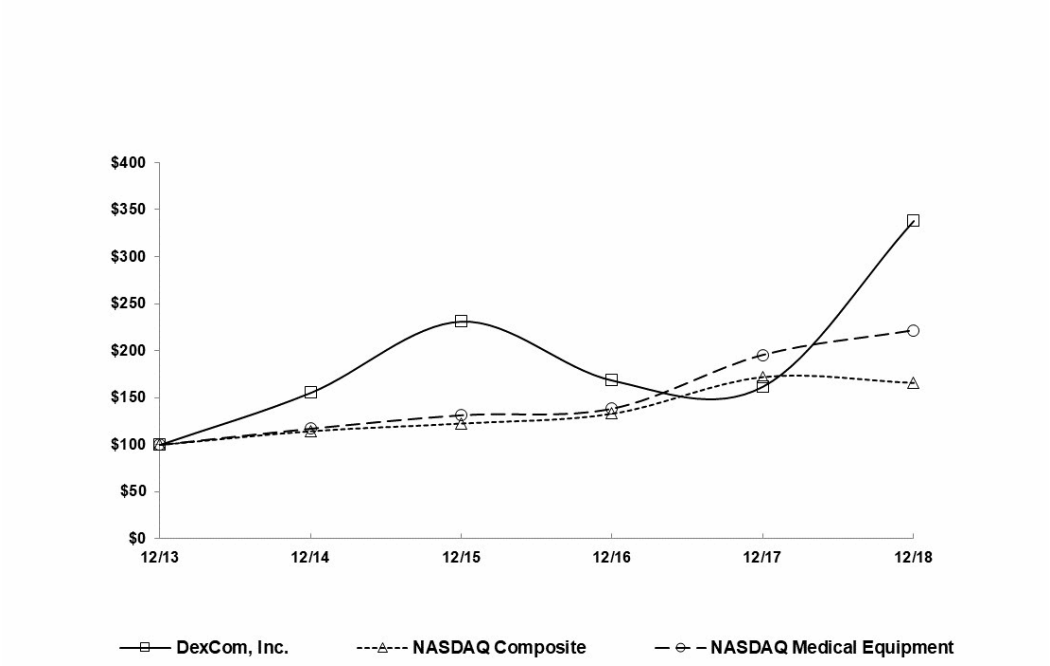
In November 2018 we repurchased 0.8 million shares of our common stock for $100.0 million, or an average per share price of $123.99. None of these shares were repurchased as part of a publicly announced share repurchase plan.

Company Stock Price Performance

The graph below compares the cumulative total stockholder return on our common stock with the cumulative total returns on the Nasdaq Composite Index and the Nasdaq Medical Equipment Index over the five-year period ending December 31, 2018. The graph assumes that $100 was invested in DexCom common stock and in each of the other indices on December 31, 2013 and that all dividends were reinvested. The comparisons in the graph below are based on historical data and are not intended to forecast the possible future performance of DexCom's common stock.

The graph below and related information shall not be deemed "soliciting material" or be deemed to be "filed" with the SEC, nor shall such information be incorporated by reference into any future filing, except to the extent that we specifically incorporate it by reference into such filing.

COMPARISON OF FIVE-YEAR CUMULATIVE TOTAL RETURN*
AMONG DEXCOM, INC.
THE NASDAQ COMPOSITE INDEX
AND THE NASDAQ MEDICAL EQUIPMENT INDEX



* $100 invested on December 31, 2013 in stock or index, including reinvestment of any dividends.

	December 31, 2013	December 31, 2014	December 31, 2015	December 31, 2016	December 31, 2017	December 31, 2018
DexCom, Inc.	**$ 100.00**	**$ 155.46**	**$ 231.29**	**$ 168.60**	**$ 162.07**	**$ 338.32**
Nasdaq Composite	**$ 100.00**	**$ 114.62**	**$ 122.81**	**$ 133.19**	**$ 172.11**	**$ 165.84**
Nasdaq Medical Equipment	**$ 100.00**	**$ 117.22**	**$ 131.48**	**$ 138.45**	**$ 195.37**	**$ 221.45**

ITEM 6. SELECTED FINANCIAL DATA

The consolidated statements of operations data for the years ended December 31, 2018, 2017, and 2016 and the consolidated balance sheet data as of December 31, 2018 and 2017 have been derived from our audited consolidated financial statements included elsewhere in this Annual Report. The statements of operations data for the years ended December 31, 2015 and 2014 and the consolidated balance sheet data as of December 31, 2016, 2015 and 2014 have been derived from our audited financial statements not included in this Annual Report. The following selected financial data should be read in conjunction with our "Management's Discussion and Analysis of Financial Condition and Results of Operations" in Part II, Item 7 and our financial statements and related notes in Part II, Item 8 of this Annual Report.

	Years Ended December 31,				
(In millions, except per share data)	2018	2017	2016	2015	2014
Consolidated Statements of Operations Data:					
Product revenue	$ 1,031.6	$ 718.5	$ 573.3	$ 400.7	$ 257.1
Development grant and other revenue	—	—	—	1.3	2.1
Total revenue	1,031.6	718.5	573.3	402.0	259.2
Product cost of sales	367.7	226.4	194.9	123.6	82.3
Development and other cost of sales	—	—	—	—	0.6
Total cost of sales	367.7	226.4	194.9	123.6	82.9
Gross profit	663.9	492.1	378.4	278.4	176.3
Operating expenses:					
Research and development	199.7	185.4	156.1	101.0	69.4
Collaborative research and development fees[1]	217.7	—	—	36.5	—
Selling, general and administrative	432.8	349.2	286.2	198.0	128.4
Total operating expenses	850.2	534.6	442.3	335.5	197.8
Operating loss	(186.3)	(42.5)	(63.9)	(57.1)	(21.5)
Interest expense	(22.7)	(12.8)	(0.7)	(0.4)	(0.8)
Income from equity investments	80.1	—	—	—	—
Interest and other income (expense), net	2.4	6.7	(0.3)	—	—
Loss before income taxes	(126.5)	(48.6)	(64.9)	(57.5)	(22.3)
Income tax expense	0.6	1.6	0.7	0.1	0.1
Net loss	$ (127.1)	$ (50.2)	$ (65.6)	$ (57.6)	$ (22.4)
Basic and diluted net loss per share attributable to common stockholders[2]	$ (1.44)	$ (0.58)	$ (0.78)	$ (0.72)	$ (0.30)
Shares used to compute basic and diluted net loss per share attributable to common stockholders[2]	88.2	86.3	83.6	79.8	75.2

	As of December 31,				
(In millions)	2018	2017	2016	2015	2014
Consolidated Balance Sheet Data:					
Cash, cash equivalents, and short-term marketable securities	$ 1,385.6	$ 548.6	$ 123.7	$ 115.2	$ 83.6
Working capital	1,477.1	605.8	177.6	164.4	105.3
Total assets	1,916.0	904.1	402.8	292.0	184.6
Long-term obligations	1,030.3	345.8	16.6	3.9	3.8
Total stockholders' equity	$ 663.3	$ 419.4	$ 283.8	$ 221.2	$ 140.2

(1) See Note 2 to the financial statements in Part II, Item 8 of this Annual Report for a description of our Restated Collaboration Agreement with Verily Life Sciences LLC and Verily Ireland Limited.

(2) See Note 1 to the financial statements in Part II, Item 8 of this Annual Report for a description of the method used to compute basic and diluted net loss per share attributable to common stockholders.

ITEM 7. MANAGEMENT'S DISCUSSION AND ANALYSIS OF FINANCIAL CONDITION AND RESULTS OF OPERATIONS

This document, including the following Management's Discussion and Analysis of Financial Condition and Results of Operations, contains forward-looking statements that are not purely historical regarding DexCom's or its management's intentions, beliefs, expectations and strategies for the future. These forward-looking statements fall within the meaning of the federal securities laws that relate to future events or our future financial performance. In some cases, you can identify forward-looking statements by terminology such as "may," "will," "expect," "plan," "anticipate," "believe," "estimate," "intend," "potential" or "continue" or the negative of these terms or other comparable terminology. Forward-looking statements are made as of the date of this report, deal with future events, are subject to various risks and uncertainties, and actual results could differ materially from those anticipated in those forward looking statements. The risks and uncertainties that could cause actual results to differ materially are more fully described under "Risk Factors" and elsewhere in this report and in our other reports filed with the SEC. We assume no obligation to update any of the forward-looking statements after the date of this report or to conform these forward-looking statements to actual results. You should read the following discussion and analysis together with "Selected Financial Data" in Part II, Item 6 and our financial statements and related notes in Part II, Item 8 of this Annual Report.

Overview

We are a medical device company primarily focused on the design, development and commercialization of continuous glucose monitoring, or CGM, systems for use by people with diabetes and by healthcare providers. We received approval from the Food and Drug Administration, or FDA, and commercialized our first product in 2006. We launched our latest generation system, the DexCom G6® integrated Continuous Glucose Monitoring System, or G6, in 2018. Unless the context requires otherwise, the terms "we," "us," "our," the "company," or "DexCom" refer to DexCom, Inc. and its subsidiaries.

We sell our durable CGM systems and disposable sensors through a direct sales force in the United States, Canada and some countries in Europe, and through distribution arrangements in the United States, Canada, Australia, New Zealand and some countries in Europe, Asia, Latin America, the Middle East and Africa.

We plan to develop future generations of technologies that are focused on improved performance and convenience and that will enable intelligent insulin administration. We also are aggressively exploring how to extend our offerings to other opportunities, including for people with Type 2 diabetes that are non-insulin using, people with pre-diabetes, people who are obese, people with gestational diabetes, and in the hospital setting. We will continue to develop a networked platform with open architecture, connectivity and transmitters capable of communicating with other devices and software systems. We also intend to expand our efforts to accumulate CGM patient data and metrics and apply predictive modeling and machine learning to generate interactive CGM insights that can inform patient behavior.

Critical Accounting Policies and Estimates

The discussion and analysis of our financial condition and results of operations are based on our financial statements, which we have prepared in accordance with U.S. GAAP. The preparation of these financial statements requires us to make estimates and assumptions that affect the reported amounts of assets and liabilities and the disclosure of contingent assets and liabilities at the date of the financial statements as well as the reported revenue and expenses during the reporting periods. On an ongoing basis, we evaluate our estimates and judgments. We base our estimates on historical experience and on various other factors that we believe are reasonable under the circumstances, the results of which form the basis for making judgments about the carrying value of assets and liabilities that are not readily apparent from other sources. Actual results may differ from these estimates under different assumptions or conditions.

While our significant accounting policies are more fully described in Note 1 to the financial statements in Part II, Item 8 of this Annual Report, we believe that the following accounting policies and estimates are most critical to a full understanding and evaluation of our reported financial results. Members of our senior management have discussed the development and selection of these critical accounting policies and their disclosure in this Annual Report with the Audit Committee of our Board of Directors.

Revenue Recognition

ASC Topic 606. We adopted ASC Topic 606 effective January 1, 2018 using the modified retrospective method. Results for reporting periods after January 1, 2018 are presented under ASC Topic 606, while prior period amounts are not adjusted and continue to be reported in accordance with legacy accounting guidance under ASC Topic 605. The discussion which follows describes the judgments and estimates we use in recognizing revenue under ASC Topic 606. Our adoption of ASC Topic 606 did not have a material impact on the measurement nor on the recognition of revenue from contracts, for which all revenue had

not been recognized as of January 1, 2018. Therefore, no cumulative adjustment has been made to the opening balance of retained earnings at the beginning of 2018. For more information, see *"Revenue Recognition"* in Note 1 to the financial statements in Part II, Item 8 of this Annual Report.

Revenue Recognition. We generate our revenue from the sale of our durable CGM systems and disposable sensors. Our durable systems include a reusable transmitter and receiver. Disposable sensors are sold separately. We also provide free-of-charge software and mobile applications for use with our durable systems and disposable sensors. The initial durable system price is generally not dependent upon the subsequent purchase of any amount of disposable sensors.

We generally recognize revenue when control is transferred to our customers in an amount that reflects the net consideration to which we expect to be entitled. Transaction price is typically based on contracted rates less any estimates of claim denials and historical reimbursement experience, which would include current and future expectations regarding reimbursement contracts, guidelines and payor mix, and less estimated variable consideration adjustments including rebates. The amount of variable consideration that is included in the transaction price is included in revenue only to the extent that it is probable that a significant reversal in the amount of the cumulative revenue recognized will not occur in a future period. We estimate reductions to our revenues for rebates paid to payors and healthcare providers in the United States. Rebates are based on contractual arrangements or statutory requirements, which may vary by product, payor and individual payor plans. Our estimates are based on products sold, historical payor mix and, as available, known market events or trends and channel inventory data. For more information, see *"Revenue Recognition"* in Note 1 to the financial statements in Part II, Item 8 of this Annual Report.

Recognizing revenue requires us to exercise judgment and use estimates that can have a significant impact on the amount and timing of revenue we report. We exercise significant judgment when we determine the transaction price, including variable consideration adjustments. If the actual amounts of consideration that we receive differ from our estimates, we would adjust our estimates and that would affect reported revenue in the period that such variances become known.

Disaggregation of Revenue. We disaggregate revenue by geographic region and by major sales channel. We have determined that disaggregating revenue into these categories achieves the ASC Topic 606 disclosure objectives of depicting how the nature, amount, timing and uncertainty of revenue and cash flows are affected by economic factors. Reconciliations of revenue disaggregated by geographic location and by major sales channel to total revenue are provided in Note 10 to the financial statements in Part II, Item 8 of this Annual Report.

Share-Based Compensation

Share-based compensation expense is measured at the grant date based on the estimated fair value of the award and is recognized straight-line over the requisite service period of the individual grants, which typically equals the vesting period. Shared-based compensation arrangements include time-based and performance/market-based Restricted Stock Units ("RSUs") and purchases of common stock at a discount under our Employee Stock Purchase Plan, or ESPP.

We estimate the fair value of time-based RSUs based on the market price of our common stock on the date of grant (the intrinsic value method). We estimate the fair value of performance/market-based RSUs using a Monte Carlo simulation model. We adjust share-based compensation expense quarterly for performance/market-based RSUs based on the expected achievement of the related performance conditions, which requires significant judgment.

We estimate the fair value of ESPP purchase rights using the Black-Scholes option pricing model. The model requires us to make assumptions that include expected volatility, expected term, dividends, and the risk-free interest rate. We account for forfeitures as they occur by reversing any share-based compensation expense related to awards that will not vest.

We recorded $101.9 million, $106.2 million and $110.8 million in share-based compensation expense during the twelve months ended December 31, 2018, 2017 and 2016, respectively. At December 31, 2018, unrecognized estimated compensation costs related to unvested restricted stock units totaled $126.5 million and are expected to be recognized through 2021.

Fair Value of Financial Instruments

The authoritative guidance establishes a fair value hierarchy that is based on the extent and level of judgment used to estimate the fair value of assets and liabilities. In general, the authoritative guidance requires us to maximize the use of observable inputs and minimize the use of unobservable inputs when measuring fair value. An asset or liability's categorization within the fair value hierarchy is based upon the lowest level of input that is significant to the measurement of its fair value. The three levels of input defined by the authoritative guidance are as follows:

Level 1—Unadjusted quoted prices that are available in active markets for identical assets or liabilities.

Level 2—Inputs other than quoted prices included in Level 1 that are observable, either directly or indirectly, through correlation with market data. These include quoted prices in active markets for similar assets or liabilities; quoted prices for identical or similar assets or liabilities in markets that are not active; and inputs to valuation models or other pricing

methodologies that do not require significant judgment because the inputs used in the model, such as interest rates and volatility, can be corroborated by readily observable market data for substantially the full term of the assets or liabilities.

Level 3—Unobservable inputs that are supported by little or no market activity and that are significant to the determination of fair value. Level 3 assets and liabilities include those whose fair values are determined using pricing models, discounted cash flow methodologies, or similar valuation techniques and significant judgment or estimation.

We estimate the fair value of most of our cash equivalents using Level 1 inputs. We estimate the fair value of our marketable equity securities using Level 1 inputs and we estimate the fair value of our marketable debt securities using Level 2 inputs. We carry our other financial instruments, such as cash, accounts receivable, prepaid expenses and other current assets, accounts payable and accrued liabilities, at cost, which approximates the related fair values due to the short-term maturities of these instruments. See Note 1 and Note 3 to the financial statements in Part II, Item 8 of this Annual Report for more information about fair value measurements.

Accounts Receivable and Related Valuation Accounts

We maintain an allowance for doubtful accounts for estimated losses resulting from the inability of our customers to make required payments. We evaluate the collectability of our accounts receivable based on a combination of factors. We regularly analyze customer accounts, review the length of time receivables are outstanding, review historical loss rates and assess current economic trends that may impact the level of credit losses in the future. Our allowance for doubtful accounts has generally been adequate to cover our actual credit losses. However, since we cannot reliably predict future changes in the financial stability of our customers, we may need to increase our reserves if the financial conditions of our customers deteriorate.

Excess and Obsolete Inventory

Inventory is valued at the lower of cost or net realizable value. We record adjustments to inventory for potentially excess, obsolete, or scrapped goods in order to state inventory at net realizable value. Factors influencing these adjustments include inventories on hand and on order compared to estimated future usage and sales for existing and new products, as well as judgments regarding quality control testing data and assumptions about the likelihood of scrap and obsolescence. Historically, our inventory reserves have been adequate to cover our actual losses. However, if actual product life cycles, product quality or market conditions differ from our assumptions, additional inventory adjustments that would increase cost of goods sold could be required.

Income Taxes

We estimate our income taxes based on the various jurisdictions where we conduct business. Significant judgment is required in determining our worldwide income tax provision. The calculation of our tax liabilities involves dealing with uncertainties in the application of complex tax laws and regulations and the potential for future adjustment of our uncertain tax positions by the Internal Revenue Service or other taxing jurisdictions. While we believe we have appropriate support for the positions taken on our tax returns, we regularly assess the potential outcomes of examinations by tax authorities in determining the adequacy of our provision for income taxes. We continually assess the likelihood and amount of potential adjustments and adjust the income tax provision, income taxes payable, and deferred taxes in the period in which the facts that give rise to a revision become known.

We use the asset and liability approach to recognize deferred tax assets and liabilities for the expected future tax consequences of temporary differences between the carrying amounts and the tax bases of assets and liabilities. Deferred tax assets and liabilities are determined using the enacted tax rates in effect for the years in which those tax assets are expected to be realized. Significant judgement is required to evaluate the need for a valuation allowance against deferred tax assets. We review all available positive and negative evidence, including projections of pre-tax book income, earnings history, and reliability of forecasting. A valuation allowance is established when it is more likely than not that some or all of the deferred tax assets will not be realized. As of December 31, 2018, we have maintained a full valuation allowance on our deferred tax assets since inception based on our historical losses and the uncertainty of generating future taxable income to utilize our loss and credit carryforwards. A future release of our valuation allowance will result in a material tax benefit recognized in the quarter of the release.

We recognize and measure benefits for uncertain tax positions using a two-step approach. The first step is to evaluate the tax position taken or expected to be taken in a tax return by determining if the weight of available evidence indicates that it is more likely than not that the tax position will be sustained upon audit, including resolution of any related appeals or litigation processes. For tax positions that are more likely than not of being sustained upon audit, the second step is to measure the tax benefit as the largest amount that is more than 50% likely of being realized upon settlement. Significant judgment is required to evaluate uncertain tax positions and is based upon a number of factors, including changes in facts or circumstances, changes in

tax law, correspondence with tax authorities during the course of audits and effective settlement of audit issues. Changes in the recognition or measurement of uncertain tax positions could result in material increases or decreases in our income tax expense in the period in which we make the change, which could have a material impact on our effective tax rate and operating results.

Loss Contingencies

We are subject to certain legal proceedings, as well as demands, claims and threatened litigation that arise in the normal course of our business. We review the status of each significant matter quarterly and assess our potential financial exposure. If the potential loss from a claim or legal proceeding is considered probable and the amount can be reasonably estimated, we record a liability and an expense for the estimated loss and disclose it in our financial statements if it is significant. If we determine that a loss is possible and the range of the loss can be reasonably determined, we do not record a liability or an expense but we disclose the range of the possible loss. Significant judgment is required in the determination of whether a potential loss is probable, reasonably possible, or remote as well as in the determination of whether a potential exposure is reasonably estimable. We base our judgments on the best information available at the time. As additional information becomes available, we reassess the potential liability related to our pending claims and litigation and may revise our estimates. Any revision of our estimates of potential liability could have a material impact on our financial position and operating results.

Results of Operations

Financial Overview

	Twelve Months Ended December 31,			2018 - 2017		2017 - 2016	
(Dollars in millions)	2018	2017	2016	$ Change	% Change	$ Change	% Change
Total revenue	$ 1,031.6	$ 718.5	$ 573.3	$ 313.1	44%	$ 145.2	25 %
Gross profit	663.9	492.1	378.4	$ 171.8	35%	$ 113.7	30 %
Gross profit as a percent of total revenue	64%	68%	66%				
Operating loss	(186.3)	(42.5)	(63.9)	$ (143.8)	338%	$ 21.4	(33)%
Net loss	$ (127.1)	$ (50.2)	$ (65.6)	$ (76.9)	153%	$ 15.4	(23)%
Basic and diluted net loss per share	$ (1.44)	$ (0.58)	$ (0.78)	$ (0.86)	148%	$ 0.20	(26)%

Revenue, Cost of Sales and Gross Profit

	Twelve Months Ended December 31,			2018 - 2017		2017 - 2016	
(Dollars in millions)	2018	2017	2016	$ Change	% Change	$ Change	% Change
Total revenue	$ 1,031.6	$ 718.5	$ 573.3	$ 313.1	44%	$ 145.2	25%
Cost of sales	367.7	226.4	194.9	141.3	62%	31.5	16%
Gross profit	$ 663.9	$ 492.1	$ 378.4	$ 171.8	35%	$ 113.7	30%
Gross profit as a percent of total revenue	64%	68%	66%				

We sell our G4 PLATINUM, G5 Mobile and G6 durable CGM systems and disposable sensors through a direct sales force in the United States, Canada and some countries in Europe, and through distribution arrangements in the United States, Canada, Australia, New Zealand and some countries in Europe, Asia, Latin America, the Middle East and Africa. Most of our distributors stock our products and fulfill orders for our products from their inventory.

We expect that revenues we generate from the sales of our products will fluctuate from quarter to quarter. We typically experience seasonality, with lower sales in the first quarter of each year compared to the immediately preceding fourth quarter. This seasonal sales pattern relates to U.S. annual insurance deductible resets and unfunded flexible spending accounts.

Cost of sales includes direct labor and materials costs related to each product sold or produced, including assembly, test labor and scrap, as well as factory overhead supporting our manufacturing operations. Factory overhead includes facilities, material procurement and control, manufacturing engineering, quality assurance, supervision and management. These costs are primarily salary, fringe benefits, share-based compensation, facility expense, supplies and purchased services. A portion of our costs are currently fixed due to our moderate level of production volumes compared to our potential capacity. All of our manufacturing costs are included in cost of sales.

2018 Compared to 2017

Total revenue increased $313.1 million or 44% for the twelve months ended December 31, 2018 compared to the twelve months ended December 31, 2017. The 2018 revenue increase was primarily driven by increased sales volume of our disposable sensors and durable systems due to the continued growth of our installed base of customers, both in the United States and outside the United States. Disposable sensor and other revenue comprised approximately 75% of total revenue and durable systems revenue comprised approximately 25% of total revenue for the twelve months ended December 31, 2018. Disposable sensor and other revenue comprised approximately 70% of total revenue and durable systems revenue comprised approximately 30% of total revenue for the twelve months ended December 31, 2017. Total distributor revenue for the twelve months ended December 31, 2018 was approximately $652.9 million or 63% of our total revenue, compared to $538.0 million or 75% of our total revenue for the same period in 2017.

Cost of sales increased $141.3 million or 62% for the twelve months ended December 31, 2018 compared to the twelve months ended December 31, 2017 primarily due to increased sales volume. The gross profit of $663.9 million or 64% of total revenue for the twelve months ended December 31, 2018 increased $171.8 million compared to $492.1 million or 68% of total revenue for the same period in 2017. The 2018 increase in gross profit dollars was driven primarily by increased revenue and decreased warranty costs, partially offset by a $7.3 million excess and obsolete inventory charge that was related to the approval and launch of our G6 system and the continuous improvement and innovation of our products, as well as royalty-related cost of sales charges. The 2018 decrease in gross margin percentage is a function of channel strategy and product mix through our new product launches and international expansion.

2017 Compared to 2016

Total revenue increased $145.2 million or 25% for the twelve months ended December 31, 2017 compared to the twelve months ended December 31, 2016. The 2017 revenue increase was primarily driven by increased sales volume of our disposable sensors due to the continued growth of our installed base of customers using our durable systems and also by increased sales volume of our durable systems to both new and existing customers. Revenue attributable to our disposable sensors and durable systems was approximately 70% and 30%, respectively, of total revenue for each of the twelve months ended December 31, 2017 and 2016. Revenue from products shipped to our distributors for the twelve months ended December 31, 2017 was approximately $538.0 million or 75% of our total revenue compared to $411.8 million or 72% of our total revenue for the same period in 2016.

Cost of sales increased $31.5 million or 16% for the twelve months ended December 31, 2017 compared to the twelve months ended December 31, 2016 primarily due to increased sales volume. The gross profit of $492.1 million or 68% of total revenue for the twelve months ended December 31, 2017 increased $113.7 million compared to $378.4 million or 66% of total revenue for the same period in 2016. The increases in gross profit dollars and gross margin percentage were driven primarily by increased revenue and decreased warranty costs. Warranty costs were lower in 2017 than in 2016 primarily due to the February 2016 customer notification regarding the audible alarms and alerts associated with our receivers, which was classified as a voluntary Class 1 recall by the FDA and was closed by the FDA in August 2017.

Operating Expenses

	Twelve Months Ended December 31,			2018 - 2017		2017 - 2016	
(Dollars in millions)	2018	2017	2016	$ Change	% Change	$ Change	% Change
Research and development	$ 199.7	$ 185.4	$ 156.1	$ 14.3	8%	$ 29.3	19%
as a % of total revenue	19%	26%	27%				
Collaborative research and development fee	217.7	—	—	217.7	NM	—	—%
as a % of total revenue	21%	—%	—%				
Selling, general and administrative	432.8	349.2	286.2	83.6	24%	63.0	22%
as a % of total revenue	42%	48%	50%				
Total operating expenses	$ 850.2	$ 534.6	$ 442.3	$ 315.6	59%	$ 92.3	21%
as a % of total revenue	82%	74%	77%				

NM = Not Meaningful

Our research and development expenses primarily consist of engineering and research expenses related to our continuous glucose monitoring technology, clinical trials, regulatory expenses, quality assurance programs, materials and products for

clinical trials. Research and development expenses are primarily related to employee compensation, including salary, fringe benefits, share-based compensation, and temporary employee expenses. We also incur significant expenses to operate our clinical trials including clinical site reimbursement, clinical trial product and associated travel expenses. Our research and development expenses also include fees for design services, contractors and development materials.

Our selling, general and administrative expenses primarily consist of salary, fringe benefits and share-based compensation for our executive, financial, sales, marketing, information technology and administrative functions. Other significant expenses include commissions, marketing and advertising, IT software license costs, insurance, professional fees for our outside legal counsel and independent auditors, litigation expenses, patent application expenses and consulting expenses.

2018 Compared to 2017

Research and Development Expense. Research and development expense increased $14.3 million or 8% for the twelve months ended December 31, 2018 compared to the same period of 2017. The increase was primarily due to $15.4 million in additional salaries, bonus and payroll-related costs, $4.6 million in additional facilities costs, and $2.9 million in additional software license costs, partially offset by $4.6 million in lower stock compensation costs, $4.0 million in lower expensed equipment costs, and a $2.5 million reduction in supplies costs.

Collaborative Research and Development Fee. We and Verily Life Sciences LLC (an Alphabet Company) ("Verily") have been jointly developing certain next-generation CGM products since August 2015. In November 2018, we entered into an amended and restated collaboration and license agreement with Verily. Under the terms of that agreement, we made an initial payment of $250.0 million through the issuance of 1,840,943 shares of our common stock. We recorded a $217.7 million collaborative research and development charge in our statement of operations during 2018 relating to the issuance of this common stock. See Note 2 to the financial statements in Part II, Item 8 of this Annual Report for more information about this collaboration agreement.

Selling, General and Administrative Expense. Selling, general and administrative expense increased $83.6 million or 24% for the twelve months ended December 31, 2018 compared to the same period of 2017. The increase was primarily due to higher sales-related costs that were driven by increased headcount and marketing costs to support revenue growth and the continued commercialization of our products in both the United States and Europe. Significant elements of the increase in selling, general, and administrative expenses included $19.9 million in additional salaries, bonus and payroll-related costs, $12.3 million in additional consulting fees, $9.2 million in additional incentive compensation paid to our sales personnel, $8.6 million in additional temporary labor costs, $8.2 million in additional marketing costs, $5.4 million in additional legal fees, and $4.4 million in additional software license costs.

2017 Compared to 2016

Research and Development Expense. Research and development expense increased $29.3 million or 19% for the twelve months ended December 31, 2017 compared to the same period of 2016. The increase was primarily due to $18.3 million in additional salaries, bonus and payroll-related costs, $8.4 million in additional expensed equipment, and $2.4 million of additional clinical trial costs related to development of our future products.

Selling, General and Administrative Expense. Selling, general and administrative expense increased $63.0 million or 22% for the twelve months ended December 31, 2017 compared to the same period of 2016. The increase was primarily due to higher headcount-related selling, marketing and customer support costs to support revenue growth and the continued commercialization of our products. Significant elements of the increase in selling, general, and administrative expenses included $37.8 million in additional salaries, bonus, and payroll-related costs, $10.6 million in additional marketing costs, and $4.4 million in additional software license costs.

Non-Operating Income and Expenses

Interest Expense

Interest expense is $22.7 million for the twelve months ended December 31, 2018 compared to $12.8 million for the same period of 2017 and is related to our 2022 Notes, 2023 Notes and Revolving Credit Agreement. The 2018 increase is primarily due to an additional $6.9 million of interest expense for the 2022 Notes, which were issued in May and June 2017, and $3.3 million of interest expense for the 2023 Notes, which were issued in November 2018.

Interest expense is $12.8 million for the twelve months ended December 31, 2017 compared to $0.7 million for the same period of 2016 and is related to our 2022 Notes and Revolving Credit Agreement. The 2017 increase is primarily due to an additional $11.1 million of interest expense for the 2022 Notes.

Income from Equity Investments

Income from equity investments of $80.1 million for the twelve months ended December 31, 2018 consists solely of realized gains of $44.1 million and unrealized gains of $36.0 million on our equity investment in Tandem Diabetes Care, Inc.

Interest and Other Income (Expense), Net

Interest income is $10.5 million, $3.3 million and $0.4 million for the twelve months ended December 31, 2018, 2017 and 2016, respectively, and is related to our marketable debt securities portfolio. Average interest rates and average invested balances both increased during 2018 compared to 2017 and during 2017 compared to 2016.

Other income (expense) for the twelve months ended December 31, 2018, 2017 and 2016 consists primarily of foreign currency transaction gains and losses due to the effects of foreign currency fluctuations.

Income Tax Expense

We recorded pre-tax losses in the each of the twelve months ended December 31, 2018, 2017 and 2016. The nominal income tax expense we recorded for 2018 is primarily attributable to state and foreign income tax expense, partially offset by the release of a valuation allowance related to acquired intangible assets for which we have no tax basis. The nominal income tax expense we recorded for 2017 and 2016 is primarily due to withholding and other income tax expenses in profitable jurisdictions.

Liquidity and Capital Resources

Overview, Capital Resources, and Capital Requirements

Our principal sources of liquidity are our existing cash, cash equivalents and marketable securities, cash generated from operations, proceeds from our convertible notes issuances, and access to our revolving line of credit. Our primary uses of cash have been for research and development programs, selling and marketing activities, capital expenditures, acquisitions of businesses, and debt service costs.

We expect that cash provided by our operations may fluctuate in future periods as a result of a number of factors, including fluctuations in our operating results, working capital requirements and capital deployment decisions. We have historically invested our cash primarily in U.S. dollar-denominated, investment grade, highly liquid obligations of U.S. government-sponsored enterprises, commercial paper, corporate debt, and money market funds. Certain of these investments are subject to general credit, liquidity and other market risks. The general condition of the financial markets and the economy may increase those risks and may affect the value and liquidity of investments and restrict our ability to access the capital markets.

Our future capital requirements will depend on many factors, including but not limited to:

- the revenue generated by sales of our approved products and other future products;
- the expenses we incur in manufacturing, developing, selling and marketing our products;
- the quality levels of our products and services;
- the third-party reimbursement of our products for our customers;
- our ability to efficiently scale our operations to meet demand for our current and any future products;
- the costs, timing and risks of delays of additional regulatory approvals;
- the costs of filing, prosecuting, defending and enforcing any patent claims and other intellectual property rights;
- the rate of progress and cost of our clinical trials and other development activities;
- the success of our research and development efforts;
- the emergence of competing or complementary technological developments;
- the terms and timing of any collaborative, licensing and other arrangements that we may establish;
- the acquisition of businesses, products and technologies and our ability to integrate and manage any acquired businesses, products and technologies; and
- the evolution of the international expansion of our business.

We expect that existing cash and cash flows from our future operations will generally be sufficient to fund our ongoing core business. As current borrowing sources become due, we may be required to access the capital markets for additional funding. As we assess inorganic growth strategies, we may need to supplement our internally generated cash flow with outside

sources. In the event that we are required to access the debt market, we believe that we will be able to secure reasonable borrowing rates. As part of our liquidity strategy, we will continue to monitor our current level of earnings and cash flow generation as well as our ability to access the market in light of those earning levels.

A substantial portion of our operations are located in the United States, and the majority of our sales since inception have been made in U.S. dollars. Accordingly, our assessment is that we have no material net exposure to foreign currency exchange rate fluctuations at this time. However, as our business in markets outside of the United States continues to increase, we will be exposed to foreign currency exchange risk related to our foreign operations. Fluctuations in the rate of exchange between the U.S. dollar and foreign currencies, primarily the British Pound, the Euro, and the Canadian Dollar, could adversely affect our financial results, including our revenues, revenue growth rates, gross margins, income and losses as well as assets and liabilities. We currently engage in limited hedging transactions to reduce foreign currency risks on certain intercompany balances. We will continue to monitor and manage our financial exposures due to exchange rate fluctuations as an integral part of our overall risk management program. As of December 31, 2018, the cash balance held by our foreign subsidiaries with currencies other than the U.S. dollar was approximately $18.0 million. We intend to reinvest a substantial portion of our foreign earnings in those businesses, and we currently do not anticipate that we will need funds generated by foreign operations to fund our domestic operations.

As of December 31, 2018, our cash, cash equivalents and marketable securities totaled $1.386 billion, an increase of $837.0 million from December 31, 2017 due to the factors described in "Cash Flows" below. We believe that our cash, cash equivalents, and marketable securities balances, projected cash contributions from our commercial operations, and our $200.0 million revolving line of credit, of which $195.6 million remains available, will be sufficient to meet our anticipated seasonal working capital needs, capital expenditure requirements, contractual obligations, commitments, debt service requirements, and other liquidity requirements associated with our operations for at least the next 12 months.

Revolving Credit Agreement

In December 2018, we entered into an amended and restated five-year $200.0 million revolving Credit Agreement, including a sub-facility of up to $10.0 million for letters of credit. Subject to customary conditions and the approval of any lender whose commitment would be increased, we have the option to increase the maximum principal amount available under the Credit Agreement by up to an additional $300.0 million, resulting in a maximum available principal amount of $500.0 million. However, at this time none of the lenders have committed to provide any such increase in their commitments. Revolving loans under the Credit Agreement will be available for general corporate purposes, including working capital and capital expenditures. In March 2017, we drew $75.0 million on the Credit Agreement under a six-month term and we repaid the entire principal balance in May 2017. As of December 31, 2018, we had no outstanding borrowings, $4.4 million in outstanding letters of credit, and a total available balance of $195.6 million under the Credit Agreement. We monitor counterparty risk associated with the institutional lenders that are providing the credit facility. We currently believe that the credit facility will be available to us should we choose to borrow under it.

See Note 5 to the financial statements in Part II, Item 8 of this Annual Report for more information about the terms of the Credit Agreement.

Senior Convertible Notes

In June 2017, we completed an offering of $400.0 million aggregate principal amount of unsecured senior convertible notes with a stated interest rate of 0.75% and a maturity date of May 15, 2022 (the 2022 Notes). Holders may elect to convert the 2022 Notes any time after February 15, 2022 for shares of our common stock. The 2022 Notes may be settled in cash, stock, or a combination thereof, solely at our discretion. Interest on the 2022 Notes began accruing upon issuance and payable semi-annually on May 15 and November 15 of each year.

In November 2018, we completed an offering of $850.0 million aggregate principal amount of unsecured senior convertible notes with a stated interest rate of 0.75% and a maturity date of December 1, 2023 (the 2023 Notes). Holders may elect to convert the 2023 Notes any time after September 1, 2023 for shares of our common stock. The 2023 Notes may be settled in cash, stock, or a combination thereof, solely at out discretion. Interest on the 2023 Notes began accruing upon issuance and payable semi-annually on June 1 and December 1 of each year.

We used a portion of the net proceeds from the offering of the 2022 Notes to repay $75.0 million of borrowings under our existing credit facility in 2017. We used a portion of the net proceeds from the offering of the 2023 Notes to repurchase 0.8 million shares of our common stock for $100.0 million in 2018. The remainder of the net proceeds from the 2022 Notes and the 2023 Notes offerings are available for general corporate purposes and capital expenditures, including working capital needs. We may also use the net proceeds to expand our current business through in-licensing or acquisitions of, or investments in, other businesses, products or technologies; however, we do not have any significant commitments with respect to any such acquisitions or investments at this time.

2023 Note Hedge

In connection with the offering of the 2023 Notes, in November 2018 we entered into convertible note hedge transactions (the 2023 Note Hedge) with two of the initial purchasers of the 2023 Notes (the 2023 Counterparties) entitling us to purchase up to 5.2 million shares of our common stock at an initial price of $164.29 per share, each of which is subject to adjustment. The cost of the 2023 Note Hedge was $218.9 million and it will expire on December 1, 2023. The 2023 Note Hedge is expected to reduce the potential equity dilution upon any conversion of the 2023 Notes and/or offset any cash payments we are required to make in excess of the principal amount of converted 2023 Notes if the daily volume-weighted average price per share of our common stock exceeds the strike price of the 2023 Note Hedge. The strike price of the 2023 Note Hedge initially corresponds to the conversion price of the 2023 Notes and is subject to certain adjustments under the terms of the 2023 Note Hedge.

2023 Warrants

In November 2018, we also sold warrants (the 2023 Warrants) to the 2023 Counterparties to acquire up to 5.2 million shares of our common stock for cash proceeds of $183.8 million. The 2023 Warrants require net share settlement and a pro-rated number of warrants will expire on each of the 60 scheduled trading days starting on March 1, 2024.

See Note 5 to the financial statements in Part II, Item 8 of this Annual Report for more information about the 2022 Notes and the 2023 Notes, the 2023 Note Hedge, and the 2023 Warrants.

Cash Flows

The following table sets forth a summary of our cash flows for the periods indicated. See the financial statements in Part II, Item 8 of this Annual Report for complete statements of cash flows for these periods.

	Twelve Months Ended December 31,			Change	
(In millions)	2018	2017	2016	2018-2017	2017-2016
Net cash provided by operating activities	$ 123.2	$ 92.0	$ 56.2	$ 31.2	$ 35.8
Net cash used in investing activities	(139.8)	(144.4)	(55.9)	4.6	(88.5)
Net cash provided by financing activities	710.4	399.1	8.1	311.3	391.0
Effect of exchange rates on cash, cash equivalents, and restricted cash	1.8	0.3	—	1.5	0.3
Net increase in cash, cash equivalents, and restricted cash	$ 695.6	$ 347.0	$ 8.4	$ 348.6	$ 338.6

As of December 31, 2018, we had $1.386 billion in cash, cash equivalents and short-term marketable securities, which is an increase of $837.0 million compared to $548.6 million as of December 31, 2017. The primary cash flows during the twelve months ended December 31, 2018, 2017 and 2016 are described below.

Operating Cash Flows

Net cash provided by operating activities during 2018 was comprised of a net loss of $127.1 million and changes in working capital balances of $40.9 million, offset by $291.2 million of net non-cash expenses. Net non-cash expenses were primarily related to a $217.7 million non-cash collaborative research and development fee, share-based compensation, depreciation and amortization, non-cash interest expense for our senior convertible notes, and realized and unrealized gains on our equity investment in Tandem Diabetes Care, Inc.

Net cash provided by operating activities during 2017 was comprised of a net loss of $50.2 million, offset by $139.6 million of net non-cash expenses and $2.6 million of changes in working capital balances. Net non-cash expenses were primarily related to share-based compensation, depreciation and amortization, and non-cash interest expense for our senior convertible notes.

Net cash provided by operating activities during 2016 was comprised of a net loss of $65.6 million and changes in working capital balances of $6.3 million, offset by $128.1 million of net non-cash expenses. Net non-cash expenses were primarily related to share-based compensation and depreciation and amortization.

Investing Cash Flows

Net cash used in investing activities during 2018 was primarily comprised of $61.4 million for net purchases of marketable securities and $67.1 million for capital expenditures.

Net cash used in investing activities during 2017 was primarily comprised of $78.4 million for net purchases of marketable securities and $66.0 million for capital expenditures.

Net cash used in investing activities during 2016 was primarily comprised of $55.7 million for capital expenditures.

Financing Cash Flows

Net cash provided by financing activities during 2018 was primarily comprised of $836.6 million in net proceeds from the issuance of our 2023 Notes and $183.8 million in proceeds from the sale of the 2023 Warrants, partially offset by $218.9 million for the purchase of the 2023 Note Hedge and $100.0 million for the purchase of treasury shares.

Net cash provided by financing activities during 2017 was primarily comprised of $389.0 million in net proceeds from the issuance of our 2022 Notes.

Net cash provided by financing activities during 2016 was primarily comprised of $10.4 million from the issuance of common stock under our employee stock plans.

Contractual Obligations

We are party to various leasing arrangements, primarily for office, manufacturing and warehouse space that expire at various times through March 2028.

The following table summarizes our outstanding contractual obligations as of December 31, 2018 and the effect those obligations are expected to have on our liquidity and cash flows in future periods:

(In millions)	Total[3]	Less than 1 Year[3]	1-3 Years	3-5 Years[1]	More than 5 Years
Senior convertible notes [1]	$ 1,292.4	$ 9.4	$ 18.8	$ 1,264.2	$ —
Lease obligations [2]	68.8	14.4	34.2	11.3	8.9
Total	$ 1,361.2	$ 23.8	$ 53.0	$ 1,275.5	$ 8.9

(1) We issued senior convertible notes in May and June 2017 that are due in May 2022 and we issued senior convertible notes in November 2018 that are due in December 2023. The obligations presented above include both principal and interest for these notes. Although these notes mature in 2022 and 2023, they may be converted into cash and shares of our common stock prior to maturity if certain conditions are met. Any conversion prior to maturity can result in repayment of the principal amounts sooner than the scheduled repayment as indicated in the table. See Note 5 to the financial statements in Part II, Item 8 of this Annual Report for further discussion of the terms of our senior convertible notes.

(2) Includes a financing lease obligation related to our Mesa, Arizona facility. See Note 6 to the financial statements in Part II, Item 8 of this Annual Report for more information.

(3) We are also party to various purchase arrangements related to components used in manufacturing and research and development activities. As of December 31, 2018, we had firm purchase commitments with vendors totaling approximately $204.0 million, most of which are due within one year. Firm purchase commitments represent agreements to purchase products and services that are enforceable, legally binding and specify terms, including: fixed or minimum quantities to be purchased; fixed, minimum or variable price provisions; and the approximate timing of the payments.

Off-Balance Sheet Arrangements

As of December 31, 2018, we did not have any significant off-balance sheet arrangements, as defined in Item 303(a)(4)(ii) of Regulation S-K.

Recent Accounting Guidance

For a description of recently issued accounting guidance that is applicable to our financial statements, see Note 1 to the financial statements in Part II, Item 8 of this Annual Report.

ITEM 7A. QUANTITATIVE AND QUALITATIVE DISCLOSURES ABOUT MARKET RISK

Interest Rate Risk

The primary objective of our investment activities is to preserve our capital for the purpose of funding operations while at the same time maximizing the income we receive from our investments without significantly increasing risk. To achieve these objectives, our investment policy allows us to maintain a portfolio of cash equivalents and short-term investments in a variety of securities, including money market funds, U.S. Treasury debt and corporate debt securities. Due to the short-term nature of our investments, we believe that we have no material exposure to interest rate risk.

Market Price Sensitive Instruments

In order to reduce potential equity dilution, in connection with the issuance of the 2023 Notes we entered into the 2023 Hedge which entitles us to purchase shares of our common stock. Upon conversion of the 2023 Notes, the 2023 Hedge is expected to reduce the equity dilution if the daily volume-weighted average price per share of our common stock exceeds the strike price of the hedge. We also entered into warrant transactions with the counterparties of the 2023 Hedge entitling them to acquire shares of our common stock. The warrant transactions could have a dilutive effect on our earnings per share to the extent that the price of our common stock during a given quarterly or annual measurement period exceeds the strike price of the warrants. See Note 5 to the financial statements in Part II, Item 8 of this Annual Report for more information.

Foreign Currency Exchange Risk

A substantial portion of our operations are located in the United States, and the majority of our sales since inception have been made in U.S. dollars. Accordingly, our assessment is that we have no material net exposure to foreign currency exchange rate fluctuations at this time. However, as our business in markets outside of the United States continues to increase, we will be exposed to foreign currency exchange risk related to our foreign operations. Fluctuations in the rate of exchange between the U.S. dollar and foreign currencies, primarily the British Pound, the Euro, and the Canadian Dollar, could adversely affect our financial results, including our revenues, revenue growth rates, gross margins, income and losses as well as assets and liabilities.

We translate the financial statements of our foreign subsidiaries with functional currencies other than the U.S. dollar into the U.S. dollar for consolidation using end-of-period exchange rates for assets and liabilities and average exchange rates during each reporting period for results of operations. We record net gains or losses resulting from the translation of foreign financial statements and the effect of exchange rate changes on intercompany receivables and payables of a long-term nature as a separate component of stockholders' equity. These adjustments will affect net income only upon sale or liquidation of the underlying investment in foreign subsidiaries.

We record exchange rate fluctuations resulting from the translation of the short-term intercompany balances between domestic entities and our foreign subsidiaries as foreign currency transaction gains or losses and include them in interest and other income (expense), net in our statement of operations. We enter into foreign currency forward contracts for certain intercompany balances in order to partially offset the impact from fluctuation of the foreign currency rates.

As of December 31, 2018, a notional amount of $60.0 million was outstanding to hedge currency risk relating to certain intercompany balances. Derivative instrument gains on forward exchange contracts were $0.4 million for the twelve months ended December 31, 2018 and are included in interest and other income (expense), net in our statement of operations. The fair value of the forward contract exchange derivative instrument liability was $0.2 million as of December 31, 2018. We record derivative instruments in other current assets or other current liabilities in our balance sheets consistent with the nature of the instrument at period end. We entered into no foreign currency forward contracts during 2017 or 2016.

Notional principal amounts provide one measure of the transaction volume outstanding as of period end, but they do not represent the amount of our exposure to market loss. Estimates of fair value are based on applicable and commonly used pricing models using prevailing financial market information. The amounts ultimately realized upon settlement of these financial instruments, together with the gains and losses on the underlying exposures, will depend on actual market conditions during the remaining life of the instruments. We monitor and manage our financial exposures due to exchange rate fluctuations as an integral part of our overall risk management program, which recognizes the unpredictability of financial markets and seeks to reduce potentially adverse effects on our financial results.

ITEM 8. CONSOLIDATED FINANCIAL STATEMENTS AND SUPPLEMENTARY DATA

The information required is set forth under "Report of Independent Registered Public Accounting Firm," "Consolidated Balance Sheets," "Consolidated Statements of Operations," "Consolidated Statements of Comprehensive Loss," "Consolidated Statements of Stockholders' Equity," "Consolidated Statements of Cash Flows" and "Notes to Consolidated Financial Statements" on pages F-2 to F-37 of this Annual Report.

ITEM 9. CHANGES IN AND DISAGREEMENTS WITH ACCOUNTANTS ON ACCOUNTING AND FINANCIAL DISCLOSURE

Not applicable.

ITEM 9A. CONTROLS AND PROCEDURES

Evaluation of Disclosure Controls and Procedures

Regulations under the Securities Exchange Act of 1934 require public companies to maintain "disclosure controls and procedures," which are defined to mean a company's controls and other procedures that are designed to ensure that information required to be disclosed in the reports that it files or submits under the Securities Exchange Act of 1934 is accumulated and timely communicated to management, including our Chief Executive Officer and Chief Financial Officer, recorded, processed, summarized, and reported within the time periods specified in the Securities and Exchange Commission's rules and forms. Our management, including our Chief Executive Officer and our Chief Financial Officer, conducted an evaluation as of the end of the period covered by this report of the effectiveness of our disclosure controls and procedures. Based on their evaluation as of December 31, 2018, our Chief Executive Officer and our Chief Financial Officer concluded that our disclosure controls and procedures were effective as of such date for this purpose.

Changes in Internal Control over Financial Reporting

There were no changes in our internal control over financial reporting during our last fiscal quarter that have materially affected, or are reasonably likely to materially affect our internal control over financial reporting.

Management's Report on Internal Control over Financial Reporting

Our management is responsible for establishing and maintaining adequate internal control over financial reporting as defined in Rule 13a-15(f) under the Securities Exchange Act of 1934. Our internal control over financial reporting is designed to provide reasonable assurance to our management and Board of Directors regarding the preparation and fair presentation of published financial statements.

Our management, with the participation of the Chief Executive and Chief Financial Officers, assessed the effectiveness of our internal control over financial reporting as of December 31, 2018. In making this assessment, our management used the criteria set forth by the 2013 Committee of Sponsoring Organizations of the Treadway Commission (COSO) in Internal Control—Integrated Framework. Based on this assessment, our management, with the participation of the Chief Executive and Chief Financial Officers, believes that, as of December 31, 2018, our internal control over financial reporting is effective based on those criteria. The effectiveness of our internal control over financial reporting as of December 31, 2018 has been audited by Ernst & Young LLP an Independent Public Registered Accounting Firm, as stated in their report which is included herein.

The certifications of our Chief Executive Officer and Chief Financial Officer required under Section 302 of the Sarbanes-Oxley Act have been filed as Exhibits 31.01 and 31.02 to this report.

Because of its inherent limitations, internal control over financial reporting may not prevent or detect misstatements. Therefore, even those systems determined to be effective can provide only reasonable assurance with respect to financial statement preparation and presentation.

Limitation on Effectiveness of Controls

It should be noted that any system of controls, however well designed and operated, can provide only reasonable, and not absolute, assurance that the objectives of the system are met. The design of any control system is based, in part, upon the benefits of the control system relative to its costs. Control systems can be circumvented by the individual acts of some persons, by collusion of two or more people, or by management override of the control. In addition, over time, controls may become inadequate because of changes in conditions, or the degree of compliance with the policies or procedures may deteriorate. Because of these and other inherent limitations of control systems, we cannot guaranty that any design will succeed in achieving its stated goals under all potential future conditions, regardless of how remote.

REPORT OF INDEPENDENT REGISTERED PUBLIC ACCOUNTING FIRM

The Board of Directors and Stockholders of DexCom, Inc.

Opinion on Internal Control over Financial Reporting

We have audited DexCom, Inc.'s internal control over financial reporting as of December 31, 2018, based on criteria established in Internal Control-Integrated Framework issued by the Committee of Sponsoring Organizations of the Treadway Commission (2013 Framework) (the COSO criteria). In our opinion, DexCom, Inc. (the Company) maintained, in all material respects, effective internal control over financial reporting as of December 31, 2018, based on the COSO criteria.

We also have audited, in accordance with the standards of the Public Company Accounting Oversight Board (United States) (PCAOB), the consolidated balance sheets of DexCom, Inc. as of December 31, 2018 and 2017, the related consolidated statements of operations, comprehensive loss, stockholders' equity and cash flows for each of the three years in the period ended December 31, 2018, and the related notes and financial statement schedule listed in the Index at Item 15(a) and our report dated February 21, 2019 expressed an unqualified opinion thereon.

Basis for Opinion

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

We conducted our audit in accordance with the standards of the PCAOB. Those standards require that we plan and perform the audit to obtain reasonable assurance about whether effective internal control over financial reporting was maintained in all material respects.

Our audit included obtaining an understanding of internal control over financial reporting, assessing the risk that a material weakness exists, testing and evaluating the design and operating effectiveness of internal control based on the assessed risk, and performing such other procedures as we considered necessary in the circumstances. We believe that our audit provides a reasonable basis for our opinion.

Definition and Limitations of Internal Control Over Financial Reporting

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

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

/s/ Ernst & Young LLP
San Diego, California
February 21, 2019

ITEM 9B. OTHER INFORMATION

None.

PART III

ITEM 10. DIRECTORS, EXECUTIVE OFFICERS AND CORPORATE GOVERNANCE

The information concerning our directors required by this Item is incorporated by reference to the section in our Proxy Statement entitled "Proposal No. 1 – Election of Directors."

The information concerning our executive officers required by this Item is incorporated by reference to the section in our Proxy Statement entitled "Executive Officers."

The information concerning compliance with Section 16(a) of the Securities Exchange Act of 1934 required by this Item is incorporated by reference to the section in our Proxy Statement entitled "Section 16(a) Beneficial Ownership Reporting Compliance."

We have adopted a written code of ethics for financial employees that applies to our principal executive officer, principal financial officer, principal accounting officer, controller and other employees of the finance department designated by our Chief Financial Officer. This code of ethics, titled the "Code of Conduct and Ethics for Chief Executive Officer and Senior Finance Personnel," is publicly available on our Internet website at https://dexcom.gcs-web.com/corporate-governance. The information contained on our Internet website is not incorporated by reference into this Annual Report on Form 10-K.

The information concerning the audit committee of the Board of Directors required by this Item is incorporated by reference to information set forth in the Proxy Statement.

The information concerning material changes to the procedures by which stockholders may recommend nominees to the Board of Directors required by this Item is incorporated by reference to information set forth in the Proxy Statement.

ITEM 11. EXECUTIVE COMPENSATION

The information required by this Item concerning executive compensation and our Compensation Committee is incorporated by reference to information set forth in the Proxy Statement under the heading "Executive Compensation."

ITEM 12. SECURITY OWNERSHIP OF CERTAIN BENEFICIAL OWNERS AND MANAGEMENT AND RELATED STOCKHOLDER MATTERS

The information required by this Item is incorporated by reference to information set forth in the Proxy Statement under the headings "Principal Stockholders and Stock Ownership by Management" and "Equity Compensation Plan Information."

ITEM 13. CERTAIN RELATIONSHIPS AND RELATED TRANSACTIONS, AND DIRECTOR INDEPENDENCE

The information required by this Item with respect to director independence is incorporated by reference to information set forth in the Proxy Statement.

The information concerning certain relationships and related transactions required by the Item is incorporated by reference to the section in our Proxy Statement entitled "Certain Transactions."

ITEM 14. PRINCIPAL ACCOUNTANT FEES AND SERVICES

The information concerning principal accountant fees and services required by this Item is incorporated by reference to the section in our Proxy Statement entitled "Ratification of Selection of Independent Registered Public Accounting Firm."

PART IV

ITEM 15. EXHIBITS, FINANCIAL STATEMENT SCHEDULES

(a) The following documents are filed as part of this Annual Report:

1. Financial Statements.

The financial statements listed in Part II, Item 8 of this Annual Report.

2. Financial Statement Schedules.

For the three fiscal years ended December 31, 2018, Schedule II – Valuation and Qualifying Accounts.

Financial statement schedules not listed above have been omitted because information required to be set forth therein is not applicable, not required, or the information required by such schedules is shown in the financial statements or the notes thereto.

3. Exhibits.

		Incorporated by Reference				
Exhibit Number	Exhibit Description	Form	File No.	Date of First Filing	Exhibit Number	Provided Herewith
3.01	Registrant's Restated Certificate of Incorporation.	S-1/A	333-122454	March 3, 2005	3.03	
3.02	Registrant's Amended and Restated Bylaws.	8-K	000-51222	November 25, 2014	3.01	
4.01	Form of Specimen Certificate for Registrant's common stock.	S-1/A	333-122454	March 24, 2005	4.01	
4.02	Indenture, dated as of May 12, 2017, between DexCom, Inc. and U.S. Bank National Association (including the form of 0.75% Convertible Senior Notes due 2022)	8-K	000-51222	May 12, 2017	4.1	
4.03	Indenture, dated as of November 30, 2019, between DexCom, Inc. and U.S. Bank National Association (including the form of 0.75% Convertible Senior Notes due 2023)	8-K	000-51222	December 3, 2018	4.1	
10.01	Form of Indemnity Agreement between Registrant and each of its directors and executive officers.	S-1	333-122454	February 1, 2005	10.01	
10.03	2005 Equity Incentive Plan and forms of stock option agreement and stock option exercise agreements.*	S-1/A	000-51222	March 24, 2005	10.03	
10.04	2005 Employee Stock Purchase Plan and form of subscription agreement.*	S-1/A	000-51222	March 24, 2005	10.04	
10.05	Offer letter between DexCom, Inc. and Jorge Valdes dated October 16, 2005.*	10-K	000-51222	February 27, 2006	10.14	
10.06	Office Lease Agreement, dated March 31, 2006, between DexCom, Inc. and Kilroy Realty, L.P.	8-K	000-51222	April 7, 2006	99.01	

Exhibit Number	Exhibit Description	Incorporated by Reference				Provided Herewith
		Form	File No.	Date of First Filing	Exhibit Number	
10.07	Offer letter between DexCom, Inc. and Steven R. Pacelli dated April 10, 2006.*	8-K	000-51222	April 13, 2006	99.01	
10.09	Amended and Restated Joint Development Agreement, dated January 12, 2009, between DexCom, Inc. and Animas Corporation.**	8-K/A	000-51222	January 28, 2009	10.1	
10.10	OUS Commercialization Agreement, dated January 12, 2009, between DexCom, Inc. and Animas Corporation.**	8-K/A	000-51222	January 28, 2009	10.2	
10.11	Form of Amended and Restated Executive Change of Control & Severance Agreement.*	10-K	000-51222	March 5, 2009	10.20	
10.12	Amended and Restated Offer Letter Agreement dated December 19, 2008 between DexCom, Inc. and Terrance H. Gregg.*	10-K	000-51222	March 5, 2009	10.21	
10.14	Non-Exclusive Distribution Agreement, between RGH Enterprises, Inc. and DexCom, Inc., dated April 30, 2008.**	10-Q	000-51222	August 3, 2009	10.23	
10.15	Letter of Amendment of the Amended and Restated Joint Development Agreement, between Animas Corporation and DexCom, Inc., dated July 30, 2009.**	10-Q	000-51222	November 4, 2009	10.24	
10.16	Amendment No. 1 to the Commercialization Agreements, between Animas Corporation and DexCom, Inc., dated July 30, 2009.**	10-Q	000-51222	November 4, 2009	10.25	
10.17	Amended and Restated Development, Manufacturing, Licensing and Supply Agreement, between DSM PTG, Inc. and DexCom, Inc., dated February 19, 2010.**	10-K	000-51222	March 9, 2010	10.25	
10.18	Form of Restricted Stock Unit Award Agreement.	10-Q	000-51222	May 5, 2010	10.26	
10.19	First Amendment to Office Lease between DexCom, Inc. and Kilroy Realty, L.P., dated August 18, 2010.	10-Q	000-51222	November 4, 2010	10.27	
10.20	2005 Equity Incentive Plan, as amended.*	10-Q	000-51222	May 3, 2011	10.25	
10.21	Amendment Number One to Non-Exclusive Distribution Agreement, between RGH Enterprises, Inc. and DexCom, Inc., dated March 29, 2011.**	10-Q/A	000-51222	July 1, 2011	10.26	
10.22	Amendment No. 2 to the OUS Commercialization Agreement, between Animas Corporation and DexCom, Inc., dated June 7, 2011.**	10-Q	000-51222	August 3, 2011	10.27	

Exhibit Number	Exhibit Description	Incorporated by Reference				Provided Herewith
		Form	File No.	Date of First Filing	Exhibit Number	
10.23	Offer letter between DexCom, Inc. and Kevin Sayer dated May 3, 2011.*	10-Q	000-51222	August 3, 2011	10.28	
10.24	Research and Development Agreement, between Roche Diagnostics Operations, Inc. and DexCom, Inc. dated November 1, 2011.**	10-K	000-51222	February 23, 2012	10.26	
10.25	Loan and Security Agreement by and among Silicon Valley Bank, Oxford Finance LLC, DexCom, Inc. and SweetSpot Diabetes Care, Inc. dated November 1, 2012.	10-K	000-51222	February 21, 2013	10.26	
10.26	Amendment Number Two to Non-Exclusive Distribution Agreement between RGH Enterprises, Inc. and DexCom, Inc., dated March 28, 2013.**	10-Q	000-51222	May 1, 2013	10.27	
10.27	Amendment Number Three to Non-Exclusive Distribution Agreement between RGH Enterprises, Inc. and DexCom, Inc., dated December 4, 2013.**	10-K	000-51222	February 20, 2014	10.28	
10.28	Non-Exclusive Distribution Agreement between Dexcom, Inc. and Diabetes Specialty Center, LLC dated October 12, 2009, as amended on September 30, 2010, October 11, 2011, November 14, 2012 and November 1, 2013.**	10-K	000-51222	February 20, 2014	10.29	
10.29	First Amendment to Loan and Security Agreement by and among Silicon Valley Bank, Oxford Finance LLC, DexCom, Inc. and SweetSpot Diabetes Care, Inc. dated August 6, 2013.	10-Q	000-51222	May 1, 2014	10.30	
10.30	Settlement and License Agreement by and among Abbott Diabetes Care, Inc. and DexCom, Inc., dated July 2, 2014.	10-Q	000-51222	August 6, 2014	10.31	
10.31	Amendment No. 5 to Non-Exclusive Distribution Agreement between DexCom, Inc. and Diabetes Specialty Center, LLC, dated March 14, 2014.	10-Q	000-51222	August 6, 2014	10.32	
10.32	Second Amendment to Office Lease between DexCom, Inc. and Kilroy Realty, L.P., dated October 1, 2014.	10-K	000-51222	February 25, 2015	10.32	
10.33	2015 Employee Stock Purchase Plan	DEF 14A	000-51222	April 13, 2015	Appendix A	
10.34	Form of Subscription Agreement under 2015 Employee Stock Purchase Plan	8-K	000-51222	June 2, 2015	10.2	
10.35	Collaboration and License Agreement between DexCom Inc., and Google Life Sciences, LLC dated August 10, 2015**	10-Q	000-51222	November 4, 2015	10.32	

Exhibit Number	Exhibit Description	Incorporated by Reference				Provided Herewith
		Form	File No.	Date of First Filing	Exhibit Number	
10.36	Sublease between DexCom, Inc. and Entropic Communications, LLC dated February 1, 2016.	10-Q	000-51222	April 27, 2016	10.36	
10.37	Amended and Restated Non-Exclusive Distribution Agreement with Byram Healthcare dated February 1, 2016.**	10-Q	000-51222	April 27, 2016	10.37	
10.38	Credit Agreement dated June 17, 2016 by and among DexCom, Inc., the Lenders, and JPMorgan Chase Bank, as Administrative Agent.**	10-Q	000-51222	August 2, 2016	10.38	
10.39	Industrial Net Lease, Broadway dated April 28, 2016, by and between PRA/LB, L.L.C. and DexCom, Inc.	10-Q	000-51222	August 2, 2016	10.39	
10.40	Standard Form of Agreement dated May 2, 2016, by and between DexCom, Inc. and Skanska USA Building Inc	10-Q	000-51222	August 2, 2016	10.40	
10.41	Amendment to Non-Exclusive Distribution Agreement dated April 30, 2016 by and between RGH Enterprises, Inc. d/b/a Cardinal Health at Home and DexCom, Inc. **	10-Q	000-51222	August 2, 2016	10.41	
10.42	Amendment No. 1 to Collaboration and License Agreement dated October 25, 2016 by and between DexCom, Inc. and Verily Life Sciences LLC (formerly Google Life Sciences LLC)	10-K	000-51222	February 28, 2017	10.42	
10.44	Severance and Change in Control Plan	8-K	000-51222	June 6, 2017	10.20	
10.45	Form of Participation Agreement to the Severance and Change in Control Plan	8-K	000-51222	June 6, 2017	10.30	
10.46	Amended and Restated 2015 Equity Incentive Plan, as amended	10-Q	000-51222	August 1, 2017	10.42	
10.47	First Amendment to Credit Agreement dated June 17, 2016 by and among DexCom, Inc., the Lenders, and JPMorgan Chase Bank, as Administrative Agent.	10-Q	000-51222	August 1, 2017	10.46	
10.48	Standard Form of Agreement dated May 1, 2017, by and between DexCom, Inc. and Skanska USA Building Inc.	10-Q	000-51222	August 1, 2017	10.47	
10.49	Offer Letter for Quentin S. Blackford dated July 28, 2017. *	8-K	000-51222	August 1, 2017	10.10	
10.50	Form of Indemnity Agreement	10-Q	000-51222	August 1, 2017	10.43	
10.51	Form of RSU Grant Agreement 2015 Plan Global Double Trigger	10-K	000-51222	February 27, 2018	10.51	

Exhibit Number	Exhibit Description	Incorporated by Reference				Provided Herewith
		Form	File No.	Date of First Filing	Exhibit Number	
10.52	Form of RSU Grant Agreement 2015 Plan Global General	10-K	000-51222	February 27, 2018	10.52	
10.53	Form of RSU Grant Agreement 2015 Plan Global Single Trigger	10-K	000-51222	February 27, 2018	10.53	
10.54	Form of RSU Grant Agreement 2015 Plan Global	10-K	000-51222	February 27, 2018	10.54	
10.55	Form of RSU Grant Agreement 2015 Plan (Associates, Engineers, Managers, & Sr. Managers)	10-K	000-51222	February 27, 2018	10.55	
10.56	Form of RSU Grant Agreement 2015 Plan (Board Members - Annual Grant)	10-K	000-51222	February 27, 2018	10.56	
10.57	Form of RSU Grant Agreement 2015 Plan (Board Members - Incoming Grant)	10-K	000-51222	February 27, 2018	10.57	
10.58	Form of RSU Grant Agreement 2015 Plan (Director Level Employees)	10-K	000-51222	February 27, 2018	10.58	
10.59	Form of RSU Grant Agreement 2015 Plan (VP's and above)	10-K	000-51222	February 27, 2018	10.59	
10.60	Amended and Restated Collaboration and License Agreement dated November 20, 2018 by and between DexCom, Inc., Verily Life Sciences LLC (an Alphabet Company) and Verily Ireland Limited**					X
10.61	Amended and Restated Credit Agreement dated December 19, 2018 by and among DexCom, Inc., Bank of America, Silicon Valley Bank and Union Bank, and JPMorgan Chase Bank, as Administrative Agent					X
21.01	List of Subsidiaries					X
23.01	Consent of Independent Registered Public Accounting Firm					X
24.01	Power of Attorney (see signature page of this Form 10-K)					X
31.01	Certification of Chief Executive Officer Pursuant to Securities Exchange Act Rule 13a-14(a)					X
31.02	Certification of Chief Financial Officer Pursuant to Securities Exchange Act Rule 13a-14(a)					X
32.01	Certification of Chief Executive Officer Pursuant to 18 U.S.C. Section 1350 and Securities Exchange Act Rule 13a-14(b).***					X

Exhibit Number	Exhibit Description	Incorporated by Reference				Provided Herewith
		Form	File No.	Date of First Filing	Exhibit Number	
32.02	Certification of Chief Financial Officer Pursuant to 18 U.S.C. Section 1350 and Securities Exchange Act Rule 13a-14(b)***					X
101.INS	XBRL Instance Document					X
101.SCH	XBRL Taxonomy Extension Schema Document					X
101.CAL	XBRL Taxonomy Extension Calculation Linkbase Document					X
101.DEF	XBRL Taxonomy Extension Definition Linkbase Document					X
101.LAB	XBRL Taxonomy Extension Label Linkbase Document					X
101.PRE	XBRL Taxonomy Extension Presentation Linkbase Document					X

* Represents a management contract or compensatory plan.

** Confidential treatment has been requested for certain portions of this document pursuant to an application for confidential treatment sent to the Securities and Exchange Commission. Such portions are omitted from this filing and were filed separately with the Securities and Exchange Commission.

*** This certification is not deemed "filed" for purposes of Section 18 of the Securities Exchange Act, or otherwise subject to the liability of that section. Such certification will not be deemed to be incorporated by reference into any filing under the Securities Act of 1933 or the Securities Exchange Act of 1934, except to the extent that DexCom specifically incorporates it by reference.

ITEM 16. FORM 10-K SUMMARY

None

SIGNATURES

Pursuant to the requirements of Section 13 or 15(d) of the Securities Exchange Act of 1934, the registrant has duly caused this report to be signed on its behalf by the undersigned thereunto duly authorized.

DEXCOM, INC.
(Registrant)

Dated: February 21, 2019

By: /S/ QUENTIN S. BLACKFORD

Quentin S. Blackford,
Executive Vice President and Chief Financial Officer (Principal Financial and Accounting Officer)

POWER OF ATTORNEY

KNOW ALL PERSONS BY THESE PRESENTS, that each person whose signature appears below constitutes and appoints Kevin Sayer and Quentin Blackford, jointly and severally, his attorneys-in-fact, each with the power of substitution, for him in any and all capacities, to sign any amendments to this Report on Form 10-K and to file same, with exhibits thereto and other documents in connection therewith, with the Securities and Exchange Commission, hereby ratifying and confirming all that each of said attorneys-in-fact, or his substitutes, may do or cause to be done by virtue hereof.

Pursuant to the requirements of the Securities Exchange Act of 1934, this Report has been signed below by the following persons on behalf of the Registrant and in the capacities and on the dates indicated.

Signature	Title	Date
/S/ KEVIN R. SAYER **Kevin R. Sayer**	Chairman of the Board of Directors, President and Chief Executive Officer (Principal Executive Officer)	February 21, 2019
/S/ QUENTIN S. BLACKFORD **Quentin S. Blackford**	Executive Vice President and Chief Financial Officer (Principal Financial and Accounting Officer)	February 21, 2019
/S/ MARK FOLETTA **Mark Foletta**	Lead Independent Director	February 21, 2019
/S/ STEVE ALTMAN **Steve Altman**	Director	February 21, 2019
/S/ NICHOLAS AUGUSTINOS **Nicholas Augustinos**	Director	February 21, 2019
/S/ RICHARD COLLINS **Richard Collins**	Director	February 21, 2019
/S/ BARBARA KAHN **Barbara Kahn**	Director	February 21, 2019
/S/ JAY SKYLER **Jay Skyler, M.D.**	Director	February 21, 2019
/S/ ERIC TOPOL **Eric Topol, M.D.**	Director	February 21, 2019

DEXCOM, INC.

INDEX TO CONSOLIDATED FINANCIAL STATEMENTS

REPORT OF INDEPENDENT REGISTERED PUBLIC ACCOUNTING FIRM

The Board of Directors and Stockholders of DexCom, Inc.

Opinion on the Financial Statements

We have audited the accompanying consolidated balance sheets of DexCom, Inc. (the Company) as of December 31, 2018 and 2017, the related consolidated statements of operations, comprehensive loss, stockholders' equity and cash flows for each of the three years in the period ended December 31, 2018, and the related notes and financial statement schedule listed in the Index at Item 15(a) (collectively referred to as the "consolidated financial statements"). In our opinion, the consolidated financial statements present fairly, in all material respects, the financial position of the Company at December 31, 2018 and 2017, and the results of its operations and its cash flows for each of the three years in the period ended December 31, 2018, in conformity with U.S. generally accepted accounting principles.

We also have audited, in accordance with the standards of the Public Company Accounting Oversight Board (United States) (PCAOB), the Company's internal control over financial reporting as of December 31, 2018, based on criteria established in Internal Control-Integrated Framework issued by the Committee of Sponsoring Organizations of the Treadway Commission (2013 Framework) and our report dated February 21, 2019 expressed an unqualified opinion thereon.

Basis for Opinion

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

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

/s/ Ernst & Young LLP
We have served as the Company's auditor since 2000
San Diego, California
February 21, 2019

DexCom, Inc.

Consolidated Balance Sheets
(In millions—except share and par value data)

	December 31,	
	2018	2017
Assets		
Current assets:		
Cash and cash equivalents	$ 1,137.0	$ 441.5
Short-term marketable securities	248.6	107.1
Accounts receivable, net	226.7	134.3
Inventory	70.7	45.2
Prepaid and other current assets	16.5	16.6
Total current assets	1,699.5	744.7
Property and equipment, net	183.1	145.6
Goodwill	18.7	12.1
Other assets	14.7	1.7
Total assets	$ 1,916.0	$ 904.1
Liabilities and Stockholders' Equity		
Current liabilities:		
Accounts payable and accrued liabilities	$ 147.1	$ 87.2
Accrued payroll and related expenses	72.4	48.5
Deferred revenue	2.9	3.2
Total current liabilities	222.4	138.9
Other liabilities	20.0	18.2
Long-term senior convertible notes	1,010.3	327.6
Total liabilities	1,252.7	484.7
Commitments and contingencies		
Stockholders' equity:		
Preferred stock, $0.001 par value, 5.0 million shares authorized; no shares issued and outstanding at December 31, 2018 and December 31, 2017, respectively	—	—
Common stock, $0.001 par value, 200.0 million shares authorized; 91.1 million and 90.0 million shares issued and outstanding, respectively, at December 31, 2018; 87.3 million and 87.0 million shares issued and outstanding, respectively, at December 31, 2017	0.1	0.1
Additional paid-in capital	1,560.6	1,093.7
Accumulated other comprehensive income (loss)	1.5	(2.6)
Accumulated deficit	(798.9)	(671.8)
Treasury stock at cost; 0.8 million shares at December 31, 2018	(100.0)	—
Total stockholders' equity	663.3	419.4
Total liabilities and stockholders' equity	$ 1,916.0	$ 904.1

See accompanying notes

DexCom, Inc.

Consolidated Statements of Operations
(In millions—except per share data)

	Years Ended December 31,		
	2018	**2017**	**2016**
Revenue	$ 1,031.6	$ 718.5	$ 573.3
Cost of sales	367.7	226.4	194.9
Gross profit	663.9	492.1	378.4
Operating expenses			
Research and development	199.7	185.4	156.1
Collaborative research and development fee	217.7	—	—
Selling, general and administrative	432.8	349.2	286.2
Total operating expenses	850.2	534.6	442.3
Operating loss	(186.3)	(42.5)	(63.9)
Interest expense	(22.7)	(12.8)	(0.7)
Income from equity investments	80.1	—	—
Interest and other income (expense), net	2.4	6.7	(0.3)
Loss before income taxes	(126.5)	(48.6)	(64.9)
Income tax expense	0.6	1.6	0.7
Net loss	$ (127.1)	$ (50.2)	$ (65.6)
Basic and diluted net loss per share	$ (1.44)	$ (0.58)	$ (0.78)
Shares used to compute basic and diluted net loss per share	88.2	86.3	83.6

See accompanying notes

DexCom, Inc.

Consolidated Statements of Comprehensive Loss
(In millions)

	Years Ended December 31,		
	2018	2017	2016
Net loss	$ (127.1)	$ (50.2)	$ (65.6)
Other comprehensive income (loss), net of income taxes:			
Foreign currency translation gain (loss)	4.0	(1.4)	(0.7)
Unrealized gain (loss) on marketable debt securities	0.1	(0.2)	—
Total other comprehensive income (loss), net	4.1	(1.6)	(0.7)
Comprehensive loss	$ (123.0)	$ (51.8)	$ (66.3)

See accompanying notes

DexCom, Inc.
Consolidated Statements of Stockholders' Equity
(In millions)

	Common Stock		Additional Paid-In Capital	Accumulated Other Comprehensive Income (Loss)	Accumulated Deficit	Treasury Stock	Total Stockholders' Equity
	Shares	Amount					
Balance at December 31, 2015	81.7	$ 0.1	$ 776.8	$ (0.3)	$ (555.4)	$ —	$ 221.2
Issuance of common stock under equity incentive plans	2.7	—	4.4	—	—	—	4.4
Issuance of common stock for Employee Stock Purchase Plan	0.1	—	6.0	—	—	—	6.0
Issuance of common stock in connection with acquisition	0.1	—	7.2	—	—	—	7.2
Share-based compensation expense	—	—	111.3	—	—	—	111.3
Net loss	—	—	—	—	(65.6)	—	(65.6)
Other comprehensive loss	—	—	—	(0.7)	—	—	(0.7)
Balance at December 31, 2016	84.6	0.1	905.7	(1.0)	(621.0)	—	283.8
Issuance of common stock under equity incentive plans	2.3	—	2.7	—	—	—	2.7
Issuance of common stock for Employee Stock Purchase Plan	0.1	—	7.4	—	—	—	7.4
Share-based compensation expense	—	—	106.7	—	—	—	106.7
Equity component of convertible 2022 Note issuance, net of issuance costs	—	—	70.6	—	—	—	70.6
Adoption of ASU 2016-09	—	—	0.6	—	(0.6)	—	—
Net loss	—	—	—	—	(50.2)	—	(50.2)
Other comprehensive loss	—	—	—	(1.6)	—	—	(1.6)
Balance at December 31, 2017	87.0	0.1	1,093.7	(2.6)	(671.8)	—	419.4
Issuance of common stock under equity incentive plans	1.8	—	1.9	—	—	—	1.9
Issuance of common stock for Employee Stock Purchase Plan	0.2	—	8.9	—	—	—	8.9
Share-based compensation expense	—	—	101.9	—	—	—	101.9
Issuance of common stock for collaborative research and development fee	1.8	—	217.7	—	—	—	217.7
Equity component of convertible 2023 Note issuance, net of issuance costs	—	—	171.6	—	—	—	171.6
Sale of warrants	—	—	183.8	—	—	—	183.8
Convertible note hedge	—	—	(218.9)	—	—	—	(218.9)
Purchases of treasury stock	(0.8)	—	—	—	—	(100.0)	(100.0)
Net loss	—	—	—	—	(127.1)	—	(127.1)
Other comprehensive income	—	—	—	4.1	—	—	4.1
Balance at December 31, 2018	90.0	$ 0.1	$ 1,560.6	$ 1.5	$ (798.9)	$ (100.0)	$ 663.3

See accompanying notes

DexCom, Inc.
Consolidated Statements of Cash Flows
(In millions)

	Years Ended December 31,		
	2018	2017	2016
Operating activities			
Net loss	$ (127.1)	$ (50.2)	$ (65.6)
Adjustments to reconcile net loss to cash provided by operating activities:			
Depreciation and amortization	29.1	16.1	15.0
Share-based compensation	101.9	106.2	110.8
Non-cash interest expense	17.9	9.4	0.1
Non-cash collaborative research and development fee through issuance of common stock	217.7	—	—
Unrealized income on equity investment	(36.0)	—	—
Realized income on equity investment	(44.1)	—	—
Other non-cash income and expenses	4.7	7.9	2.2
Changes in operating assets and liabilities:			
Accounts receivable, net	(93.2)	(31.8)	(27.2)
Inventory	(25.5)	0.4	(9.8)
Prepaid and other assets	(3.0)	(6.7)	(3.9)
Accounts payable and accrued liabilities	56.2	21.1	21.1
Accrued payroll and related expenses	23.8	14.8	8.5
Deferred revenue, deferred rent and other liabilities	0.8	4.8	5.0
Net cash provided by operating activities	123.2	92.0	56.2
Investing activities			
Purchase of marketable securities	(452.5)	(171.8)	(39.2)
Proceeds from sale and maturity of marketable securities	392.1	93.4	38.7
Purchase of other equity investments	(1.0)	—	—
Purchase of property and equipment	(67.1)	(66.0)	(55.7)
Acquisitions, net of cash acquired	(11.3)	—	0.3
Net cash used in investing activities	(139.8)	(144.4)	(55.9)
Financing activities			
Net proceeds from issuance of common stock	10.8	10.1	10.4
Purchases of treasury stock	(100.0)	—	—
Proceeds from issuance of convertible debt, net of issuance costs	836.6	389.0	—
Proceeds from sale of warrants	183.8	—	—
Purchase of convertible note hedge	(218.9)	—	—
Proceeds from short-term borrowings	—	75.0	—
Repayment of short-term borrowings	—	(75.0)	—
Other financing activities	(1.9)	—	(2.3)
Net cash provided by financing activities	710.4	399.1	8.1
Effect of exchange rate changes on cash, cash equivalents and restricted cash	1.8	0.3	—
Increase in cash, cash equivalents and restricted cash	695.6	347.0	8.4
Cash, cash equivalents and restricted cash, beginning of period	441.5	94.5	86.1
Cash, cash equivalents and restricted cash, end of period	$ 1,137.1	$ 441.5	$ 94.5
Reconciliation of cash, cash equivalents and restricted cash, end of period:			
Cash and cash equivalents	$ 1,137.0	$ 441.5	$ 94.5
Restricted cash	0.1	—	—
Total cash, cash equivalents and restricted cash	$ 1,137.1	$ 441.5	$ 94.5

Supplemental disclosure of non-cash investing and financing transactions:			
Issuance of common stock in connection with acquisition	$ —	$ —	$ 7.2
Assets acquired and financing obligation under build-to-suit leasing arrangement	$ —	$ —	$ 6.0
Acquisition of property and equipment included in accounts payable and accrued liabilities	$ 10.8	$ 6.3	$ 10.5
Supplemental cash flow information:			
Cash paid during the year for interest	$ 3.6	$ 2.4	$ 0.1
Cash paid during the year for income taxes	$ 2.3	$ 1.4	$ 0.1

See accompanying notes

1. Organization and Significant Accounting Policies

Organization and Business

DexCom, Inc. is a medical device company focused on the design, development and commercialization of continuous glucose monitoring, or CGM, systems for ambulatory use by people with diabetes and by healthcare providers. Unless the context requires otherwise, the terms "we," "us," "our," the "company," or "DexCom" refer to DexCom, Inc. and its subsidiaries.

Basis of Presentation and Principles of Consolidation

The consolidated financial statements include the accounts of DexCom, Inc. and our wholly owned subsidiaries. All significant intercompany balances and transactions have been eliminated in consolidation. We have reclassified certain amounts previously reported in our financial statements to conform to the current presentation.

The functional currencies of our international subsidiaries are generally the local currencies. We translate the financial statements of our foreign subsidiaries into U.S. dollars using period-end exchange rates for assets and liabilities and average exchange rates for each period for revenue, costs and expenses. We include translation-related adjustments in comprehensive loss and in accumulated other comprehensive income (loss) in the equity section of our balance sheet. Gains and losses resulting from certain intercompany transactions as well as transactions with customers and vendors that are denominated in currencies other than the functional currency of each entity give rise to foreign exchange gains or losses that we record in interest and other income (expense), net in our statements of operations.

Use of Estimates

The preparation of consolidated financial statements in conformity with U.S. generally accepted accounting principles, or GAAP, requires us to make certain estimates and assumptions that affect the amounts reported in our financial statements and the disclosures made in the accompanying notes. Areas requiring significant estimates include pharmacy rebates, transaction price, net accounts receivable, excess or obsolete inventories and the valuation of inventory, and accruals for litigation contingencies. Despite our intention to establish accurate estimates and use reasonable assumptions, actual results may differ from our estimates.

Fair Value Measurements

The authoritative guidance establishes a fair value hierarchy that is based on the extent and level of judgment used to estimate the fair value of assets and liabilities. In general, the authoritative guidance requires us to maximize the use of observable inputs and minimize the use of unobservable inputs when measuring fair value. An asset or liability's categorization within the fair value hierarchy is based upon the lowest level of input that is significant to the measurement of its fair value. The three levels of input defined by the authoritative guidance are as follows:

Level 1—Unadjusted quoted prices that are available in active markets for identical assets or liabilities.

Level 2—Inputs other than quoted prices included in Level 1 that are observable, either directly or indirectly, through correlation with market data. These include quoted prices in active markets for similar assets or liabilities; quoted prices for identical or similar assets or liabilities in markets that are not active; and inputs to valuation models or other pricing methodologies that do not require significant judgment because the inputs used in the model, such as interest rates and volatility, can be corroborated by readily observable market data for substantially the full term of the assets or liabilities.

Level 3—Unobservable inputs that are supported by little or no market activity and that are significant to the determination of fair value. Level 3 assets and liabilities include those whose fair values are determined using pricing models, discounted cash flow methodologies, or similar valuation techniques and significant judgment or estimation.

We carry our marketable securities at fair value. We carry our other financial instruments, such as cash and cash equivalents, accounts receivable, prepaid expenses and other current assets, accounts payable and accrued liabilities, at cost, which approximates the related fair values due to the short-term maturities of these instruments. For more information see Note 3, "Fair Value Measurements."

Cash and Cash Equivalents

We consider highly liquid investments with a maturity of 90 days or less at the time of purchase to be cash equivalents.

Marketable Securities

We have classified our marketable securities with remaining maturity at purchase of more than three months and remaining maturities of one year or less as short-term marketable securities. We have also classified marketable securities with remaining maturities of greater than one year as short-term marketable securities based upon our ability and intent to use any and all of those marketable securities to satisfy the liquidity needs of our current operations.

We calculate realized gains or losses on our marketable securities using the specific identification method. We carry our marketable debt securities at fair value with unrealized gains and losses reported as a separate component of stockholders' equity in our balance sheets and included in comprehensive loss. Realized gains and losses on marketable debt securities are included in interest and other income (expense), net in our statements of operations. We carry our marketable equity securities at fair value with realized and unrealized gains and losses reported in income on equity investments in our statements of operations.

We invest in various types of debt securities, including debt securities in government-sponsored entities, corporate debt securities, U.S. Treasury securities and commercial paper. We do not generally intend to sell these investments and it is not more likely than not that we will be required to sell the investments before recovery of their amortized cost bases, which may be at maturity. See Note 3, "Fair Value Measurements" and Note 4, "Balance Sheet Details – *Short-Term Marketable Securities*" for more information on our marketable debt securities and our marketable equity securities.

Accounts Receivable and Allowance for Doubtful Accounts

Accounts receivable are generally recorded at the invoiced amount for Distributors and at net realizable value for Direct customers, which is determined using estimates of claim denials and historical reimbursement experience without regard to aging category. Accounts receivable are not interest bearing. We evaluate the creditworthiness of significant customers and generally do not require collateral from our customers. We maintain an allowance for doubtful accounts for potential credit losses. Uncollectable accounts are written off against the allowance after appropriate collection efforts have been exhausted and when it is deemed that a customer account is uncollectable. Generally, receivable balances greater than one year past due are deemed uncollectable.

Concentration of Credit Risk and Significant Customers

Financial instruments which potentially subject us to concentrations of credit risk consist primarily of cash, cash equivalents, short-term investment securities, and accounts receivable. We limit our exposure to credit loss by placing our cash and investments with high credit quality financial institutions. We have also established guidelines regarding diversification of our investments and their maturities that are designed to maintain principal and maximize liquidity. We review these guidelines periodically and modify them to take advantage of trends in yields and interest rates and changes in our operations and financial position.

Two of our distributors are significant customers. Each of them accounted for more than 10% of revenue in each of the past three fiscal years and each of them accounted for more than 10% of accounts receivable as of the end of the past two fiscal years. Distributor A accounted for 15%, 16% and 14% of our revenues for the twelve months ended December 31, 2018, 2017 and 2016, respectively. Distributor B accounted for 12%, 14% and 17% of our revenues for the twelve months ended December 31, 2018, 2017 and 2016, respectively. Distributor A and Distributor B accounted for 19% and 15%, respectively, of accounts receivable as of December 31, 2018 and 18% and 12%, respectively, of accounts receivable as of December 31, 2017.

Inventory

Inventory is valued at the lower of cost or net realizable value on a part-by-part basis that approximates first in, first out. We record adjustments to inventory for potentially excess, obsolete or scrapped goods in order to state inventory at net realizable value. Factors influencing these adjustments include inventories on hand and on order compared to estimated future usage and sales for existing and new products, as well as judgments regarding quality control testing data and assumptions about the likelihood of scrap and obsolescence. Once written down the adjustments are considered permanent and are not reversed until the related inventory is sold or disposed of.

Our products require customized products and components that currently are available from a limited number of sources. We purchase certain components and materials from single sources due to quality considerations, costs or constraints resulting from regulatory requirements.

Property and Equipment

Property and equipment is stated at cost less accumulated depreciation. We calculate depreciation using the straight-line method over the estimated useful lives of the assets. Estimated useful lives are generally three years for computer software and hardware, four to 15 years for machinery and equipment, and five years for furniture and fixtures. Leasehold improvements and assets acquired through a build-to-suit arrangement are amortized over the shorter of the estimated useful lives of the assets or the remaining lease term. We include the amortization of assets that are recorded under capital leases in depreciation expense.

We review property and equipment for impairment whenever events or changes in circumstances indicate that the carrying amount of an asset may not be recoverable. We estimate the recoverability of the asset by comparing the carrying amount to the future undiscounted cash flows that we expect the asset to generate. We estimate the fair value of the asset based on the present value of future cash flows for those assets. If the carrying value of an asset exceeds its estimated fair value, we would record an impairment loss equal to the difference.

Goodwill

We record goodwill when the fair value of consideration transferred in a business combination exceeds the fair value of the identifiable assets acquired and liabilities assumed. Goodwill and other intangible assets that have indefinite useful lives are not amortized, but we test them annually for impairment in the fourth quarter of our fiscal year and whenever events or changes in circumstances indicate that it is more likely than not that the fair value is less than the carrying value. Events that would indicate impairment and trigger an interim impairment assessment include, but are not limited to, current economic and market conditions, including a decline in market capitalization, a significant adverse change in legal factors, business climate or operational performance of the business, and an adverse action or assessment by a regulator.

We perform our goodwill impairment analysis at the reporting unit level, which aligns with DexCom's reporting structure and the availability of discrete financial information. We perform the first step of our annual impairment analysis by either comparing a reporting unit's estimated fair value to its carrying amount or doing a qualitative assessment of a reporting unit's fair value from the last quantitative assessment to determine if there is potential impairment. We may do a qualitative assessment when the results of the previous quantitative test indicated the reporting unit's estimated fair value was significantly in excess of the carrying value of its net assets and we do not believe there have been significant changes in the reporting unit's operations that would significantly decrease its estimated fair value or significantly increase its net assets. If a quantitative assessment is performed the evaluation includes management estimates of cash flow projections based on internal future projections and/or use of a market approach by looking at market values of comparable companies. Key assumptions for these projections include revenue growth, future gross margin and operating margin growth, and weighted cost of capital and terminal growth rates. The revenue and margin growth are based on increased sales of new and existing products as we maintain investments in research and development. Additional assumed value creators may include increased efficiencies from capital spending. The resulting cash flows are discounted using a weighted average cost of capital. Operating mechanisms and requirements to ensure that growth and efficiency assumptions will ultimately be realized are also considered in the evaluation, including the timing and probability of regulatory approvals for our products to be commercialized. We also consider DexCom's market capitalization as a part of our analysis.

If the estimated fair value of a reporting unit exceeds the carrying amount of the net assets assigned to that unit, goodwill is not impaired and no further analysis is required. If the carrying value of the net assets assigned to a reporting unit exceeds the estimated fair value of the unit, we perform the second step of the impairment test. In this step we allocate the fair value of the reporting unit calculated in step one to all of the assets and liabilities of that unit, as if we had just acquired the reporting unit in a business combination. The excess of the fair value of the reporting unit over the total amount allocated to the assets and liabilities represents the implied fair value of goodwill. If the carrying amount of a reporting unit's goodwill exceeds its implied fair value, we would record an impairment loss equal to the difference. We recorded no goodwill impairment charges for the twelve months ended December 31, 2018, 2017 or 2016.

There were no accumulated impairment losses for goodwill at December 31, 2016. The change in goodwill for the twelve months ended December 31, 2017 consisted of translation adjustments on our foreign currency denominated goodwill. The change in goodwill for the twelve months ended December 31, 2018 consisted of goodwill we recorded for acquisitions that were not significant, individually or in the aggregate, and translation adjustments on our foreign currency denominated goodwill.

Intangible Assets and Other Long-Lived Assets

We amortize intangible assets with a finite life, such as acquired technology, customer relationships, trade names and trademarks, on a straight-line basis over their estimated useful lives, which range from two to five years. We review intangible assets that have finite lives and other long-lived assets for impairment whenever events or changes in circumstances indicate that the carrying amount of an asset may not be recoverable. We estimate the fair value of the asset based on the present value

of future cash flows for those assets. If the carrying value of an asset exceeds its estimated fair value, we would record an impairment loss equal to the difference.

Income Taxes

We account for income taxes under the asset and liability method, which requires the recognition of deferred tax assets and liabilities for the expected future tax consequences of events that have been included in the financial statements. The effect of a change in tax rates on deferred tax assets and liabilities is recognized in income in the period that includes the enactment date.

We recognize deferred tax assets to the extent that we believe that these assets are more likely than not to be realized, which requires significant judgment. The realization of deferred tax assets is dependent, in part, upon future taxable income. In assessing whether our deferred tax assets will be realized, we consider all available evidence, both positive and negative. Such evidence includes historical earnings, future reversals of existing taxable temporary differences, estimates of future taxable income, and the feasibility of ongoing tax planning strategies. We have recorded a full valuation allowance on our net deferred tax asset balances for all periods presented because of the uncertainty related to utilization of our deferred tax assets.

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

We file federal and state income tax returns in the United States and income tax returns in various other foreign jurisdictions with varying statutes of limitations. Due to net operating losses incurred, our income tax returns from inception to date are subject to examination by taxing authorities. We recognize interest expense and penalties related to income tax matters, including unrecognized tax benefits, as a component of income tax expense.

Warranty Accrual

Estimated warranty costs associated with a product are recorded at the time revenue is recognized. We estimate future warranty costs by analyzing historical warranty experience for the timing and amount of returned product, and expectations for future warranty activity based on changes and improvements to the product or process that are in place or will be in place in the future. We evaluate these estimates on at least a quarterly basis to determine the continued appropriateness of our assumptions.

Loss Contingencies

If the potential loss from a claim or legal proceeding is considered probable and the amount can be reasonably estimated, we record a liability and an expense for the estimated loss and disclose it in our financial statements if it is significant. If we determine that a loss is possible and the range of the loss can be reasonably determined, then we disclose the range of the possible loss. Significant judgment is required in the determination of whether a potential loss is probable, reasonably possible, or remote as well as in the determination of whether a potential exposure is reasonably estimable.

Comprehensive Loss

Comprehensive loss consists of two elements, net loss and other comprehensive income (loss). We report all components of comprehensive loss, including net loss, in our financial statements in the period in which they are recognized. Total comprehensive loss is defined as the change in equity during a period from transactions and other events and circumstances from non-owner sources. We report net loss and the components of other comprehensive income (loss), including foreign currency translation adjustments and unrealized gains and losses on marketable securities, net of their related tax effect to arrive at total comprehensive loss.

Revenue Recognition

We generate our revenue from the sale of our durable CGM systems and disposable sensors (the Components). Our durable systems include a reusable transmitter and receiver. Disposable sensors are sold separately. We also provide free-of-charge software and mobile applications for use with our durable systems and disposable sensors. The initial durable system price is generally not dependent upon the subsequent purchase of any amount of disposable sensors.

We sell our durable systems and disposable sensors through two main sales channels: 1) directly to customers who use our products or organizations (the Direct Channel) and 2) to distribution partners who resell our products (the Distributor Channel).

In the Direct Channel, we sell our durable systems and disposable sensors to customers who use our products and we receive payment directly from customers who use our products, organizations and third-party payors. Third-party payors primarily include commercial insurance companies and federal and state agencies (under Medicare and Medicaid programs).

We adopted ASC Topic 606 effective January 1, 2018 using the modified retrospective method. We applied the practical expedient permitted under ASC Topic 606 to those contracts that were not completed as of the date of initial adoption. Results for reporting periods after January 1, 2018 are presented under ASC Topic 606, while prior period amounts are not adjusted and continue to be reported in accordance with legacy accounting guidance under ASC Topic 605. Our revenue recognition policies under ASC Topic 606 are explained below.

Policy elections and practical expedients taken

- We report revenue net of taxes collected from customers, which are subsequently remitted to governmental authorities;
- We account for shipping and handling activities that are performed after a customer has obtained control of a good as fulfillment costs rather than as separate performance obligations;
- We do not assess whether promised goods or services are performance obligations if they are immaterial in the context of the contract with the customer; and
- If we expect, at contract inception, that the period between the transfer of control and corresponding payment from the customer will be one year or less, we do not adjust the amount of consideration for the effects of a significant financing component.

Contracts and performance obligations

We consider customer purchase orders, which in most cases are governed by agreements with distributors or third-party payors, to be contracts with a customer. For each contract, we consider the obligation to transfer Components to the customer, each of which are distinct, to be separate performance obligations. Components are individually priced and can be purchased separately or bundled in a contract. We also provide free-of-charge software, mobile applications and updates for our DexCom Share® remote monitoring system. The standalone selling prices of our free-of-charge software, mobile applications and updates are based on an expected cost plus a margin approach.

Transaction price

Transaction price for the Components reflects the net consideration to which we expect to be entitled. Transaction price is typically based on contracted rates less any estimates of claim denials and historical reimbursement experience, which would include current and future expectations regarding reimbursement contracts, guidelines and payor mix, and less estimated variable consideration adjustments.

Variable consideration

Rebates. We estimate reductions to our revenues for rebates paid to payors and healthcare providers in the United States. Rebates are based on contractual arrangements or statutory requirements, which may vary by product, payor and individual payor plans. Our estimates are based on products sold, historical payor mix and, as available, known market events or trends and channel inventory data. We also take into consideration, as available, new information regarding changes in programs' regulations and guidelines that would impact the amount of the actual rebates and/or our expectations regarding future payor mix for these programs.

Product Returns. We generally provide a "30-day money back guarantee" program whereby first-time end-user customers may return the durable system. In accordance with the terms of their distribution agreements, most distributors do not have rights of return outside of our limited warranty. The distributors typically have a limited time frame to notify us of any missing, damaged, defective or non-conforming products. Our returns have historically been immaterial.

Revenue recognition

We recognize revenue when control is transferred to our customers. The timing of revenue recognition is based on the satisfaction of performance obligations. Substantially all of the performance obligations associated with our durable systems and disposable sensors are satisfied at a point in time, which typically occurs at shipment of our products. Terms of direct and distributor orders are generally Freight on Board (FOB) shipping point for U.S. orders or Free Carrier (FCA) shipping point for international orders. For certain of our distributors, control transfers at delivery of the product to the customer.

In cases where our free-of-charge software, mobile applications and updates are deemed to be separate performance obligations, revenue is recognized over time on a ratable basis over the estimated life of the related hardware component.

Our sales of the receiver and transmitter components of our CGM systems include an assurance-type warranty which is accounted for based on the cost accrual method recognized as expense when the products are sold and is not considered a separate performance obligation.

Contract balances

The timing of revenue recognition, billing and cash collections results in trade receivables and deferred revenue on our balance sheets. We recognize a receivable in the period in which our right to the consideration is unconditional. We generally do not have any contracts or performance obligations with a term of more than one year.

Our contracts with customers do not typically include extended payment terms. Payment terms vary by contract type and type of customer and generally range from 30 to 90 days.

Accounts receivable as of December 31, 2018 included unbilled accounts receivable of $5.1 million. Unbilled accounts receivable consists of revenue recognized for Components we have delivered but not yet invoiced to customers. We expect to invoice and collect all unbilled accounts receivable within twelve months.

Substantially all of our deferred revenue as of December 31, 2018 is associated with certain of our free-of-charge software and mobile applications and will be recognized during 2019. During the twelve months ended December 31, 2018, we recognized revenue of $1.9 million that was recorded as deferred revenue as of December 31, 2017.

Deferred cost of sales

Deferred cost of sales are associated with sales for which revenue recognition criteria are not met but product has shipped and released from inventory. These costs are recognized in cost of sales when the associated revenue is recognized. Deferred cost of sales are included in prepaid and other current assets in our balance sheets.

Incentive compensation costs

We generally expense incentive compensation associated with our internal sales force when incurred because the amortization period for such costs, if capitalized, would have been one year or less. We record these costs in selling, general and administrative expense in our statement of operations.

Product Shipment Costs

We record the amounts we charge our customers for the shipping and handling of our products in revenue and we record the related costs as cost of sales in our statements of operations.

Research and Development

We expense all costs of research and development as we incur them. Our research and development expenses primarily consist of engineering and research expenses related to our continuous glucose monitoring technology, clinical trials, regulatory expenses, quality assurance programs, materials and products for clinical trials. Research and development expenses primarily consist of employee compensation, including salary, fringe benefits, share-based compensation, and temporary employee expenses. We also incur significant expenses to operate our clinical trials that include clinical site reimbursement, clinical trial product, and associated travel expenses. Our research and development expenses also include fees for design services, contractors, and development materials.

Our CGM systems include certain software that we develop. We expense software development costs as we incur them until technological feasibility has been established, at which time we capitalize development costs until the product is available for general release to customers. To date, our software has been available for general release concurrent with the establishment of technological feasibility and, accordingly, we have not capitalized any development costs.

Advertising Costs

We expense all advertising costs as we incur them to selling, general and administrative expenses. Advertising expense was $25.4 million, $21.9 million and $11.9 million for the twelve months ended December 31, 2018, 2017 and 2016, respectively.

Leases

We review all leases for capital or operating classification at their inception. We use our incremental borrowing rate in the assessment of lease classification and define the initial lease term to include the construction build-out period but to exclude lease extension periods when we are not reasonably certain to exercise our extension option. We conduct our operations primarily under operating leases. For leases that contain rent escalations, we record the total rent payable during the lease term,

as defined above, to rent expense on a straight-line basis over the term of the lease. We record the difference between amounts paid under the lease agreements and the straight-line rent expense as deferred rent in our balance sheets.

Share-Based Compensation

Share-based compensation expense is measured at the grant date based on the estimated fair value of the award and is recognized straight-line over the requisite service period of the individual grants, which typically equals the vesting period. Shared-based compensation arrangements include time-based and performance/market-based Restricted Stock Units, or RSUs, and purchases of common stock at a discount under our Employee Stock Purchase Plan, or ESPP.

We estimate the fair value of time-based RSUs using the closing market price of our common stock on the date of grant. We estimate the fair value of performance/market-based RSUs using a Monte Carlo simulation model and adjust share-based compensation expense based on the expected achievement of the related performance conditions at the end of each reporting period.

We estimate the fair value of ESPP purchase rights using the Black-Scholes option pricing model. The model uses assumptions that include expected volatility, expected term, dividends, and the risk-free interest rate. The expected volatility is based on the historical volatility of our common stock over the expected term of the awards. The expected term is based on the terms and conditions of the ESPP stock awards. The expected dividend yield is zero because we have never declared or paid cash dividends on our common stock and do not anticipate paying dividends in the foreseeable future. The risk-free interest rate is based on U.S. Treasury securities with remaining terms similar to the expected term of the stock awards.

We account for forfeitures as they occur by reversing any share-based compensation expense related to awards that will not vest.

Net Income (Loss) Per Share

Basic net income (loss) per share attributable to common stockholders is calculated by dividing the net income (loss) attributable to common stockholders by the weighted-average number of common shares outstanding during the period. Diluted net income (loss) per share is computed using the weighted average number of common shares outstanding during the period and, when dilutive, potential common share equivalents.

Common share equivalents that we calculate using the treasury stock method include outstanding stock options and unvested RSUs that are settleable in shares of common stock and potential common shares from convertible securities that we intend to settle using a combination of shares of our common stock and cash. Common share equivalents that we calculate using the if-converted method include potential common shares from convertible securities that we intend to settle using only shares of our common stock.

Because we reported net losses for the twelve months ended December 31, 2018, 2017 and 2016, all potentially dilutive common shares have been excluded from the computation of the diluted net loss per share for those periods as the effect would have been anti-dilutive.

Outstanding anti-dilutive securities not included in the diluted net loss per share attributable to common stockholders calculations were as follows:

	Years Ended December 31,		
(In millions)	**2018**	**2017**	**2016**
Options outstanding to purchase common stock	0.1	0.4	0.7
Unvested restricted stock units	2.7	2.7	3.7
Senior convertible notes due 2022	4.0	4.0	—
Senior convertible notes due 2023	5.2	—	—
Warrants	5.2	—	—
Total	17.2	7.1	4.4

Recent Accounting Guidance

Recently Adopted Accounting Pronouncements

In May 2014, the Financial Accounting Standards Board ("FASB") issued authoritative guidance for *Revenue from Contracts with Customers (Topic 606)* (ASU 2014-09), to supersede nearly all existing revenue recognition guidance under U.S. GAAP. The core principle of the guidance is to recognize revenue when promised goods or services are transferred to

customers in an amount that reflects the consideration that is expected to be received for those goods or services. The guidance defines a five step process to achieve this core principle and it is possible when the five step process is applied, more judgment and estimates may be required within the revenue recognition process than required under existing U.S. GAAP, including identifying performance obligations in the contract, estimating the amount of variable consideration to include in the transaction price and allocating the transaction price to each separate performance obligation. We have applied this standard electing the modified retrospective method. We have also applied the practical expedient permitted under Accounting Standards Codification ("ASC") Topic 606 to those contracts that were not completed as of January 1, 2018. Our analysis of open contracts as of January 1, 2018 resulted in no material cumulative effect from applying ASU 2014-09.

In January 2016, the FASB issued Accounting Standards Update (ASU) No. 2016-01 to amend the guidance on the classification and measurement of financial instruments. This ASU was further amended in February 2018 by ASU No. 2018-03. The new guidance requires entities to measure equity investments that do not result in consolidation and are not accounted for under the equity method at fair value and recognize any changes in fair value in net income. The new guidance also amends certain disclosure requirements associated with the fair value of financial instruments. Our adoption of this guidance in the first quarter of 2018 did not have a significant impact on our financial statements.

In October 2016, the FASB issued ASU No. 2016-16, *Accounting for Income Taxes – Intra-Entity Asset Transfer other than Inventory (Topic 740)* (ASU 2016-16), which requires the recognition of the tax expense from the sale of an asset other than inventory when the transfer occurs, rather than when the asset is sold to a third party or otherwise recovered through use. Due to the full valuation allowance on our U.S. deferred tax assets, our adoption of the provisions of ASU 2016-16 in 2018 did not have a significant impact on our financial statements.

In December 2016, the FASB issued ASU No. 2016-18, *Restricted Cash* (ASU 2016-18). This update requires additional disclosure and that the statement of cash flows explains the change during the period in the total cash, cash equivalents and amounts generally described as restricted cash. Therefore, amounts generally described as restricted cash should be included with cash and cash equivalents when reconciling the beginning-of-period and end-of-period total amounts shown on the statement of cash flows. Our adoption of this ASU in 2018 impacted the presentation of cash flows with the inclusion of restricted cash flows for each of the presented periods.

In June 2018, the FASB issued ASU No. 2018-07, *Compensation-Stock Compensation (Topic 718): Improvements to Nonemployee Share-Based Payment Accounting* (ASU 2018-07), which simplifies the accounting for share-based payments made to nonemployees so the accounting for such payments is substantially the same as those made to employees. Under ASU 2018-07, share based awards to nonemployees will be measured at fair value on the grant date of the awards, entities will need to assess the probability of satisfying performance conditions if any are present, and awards will continue to be classified according to ASC 718 upon vesting. This eliminates the need to reassess classification upon vesting, consistent with awards granted to employees. ASU 2018-07 is effective for public business entities for fiscal years beginning after December 15, 2018, including interim periods within those fiscal years, and early adoption is permitted. We elected to early adopt ASU 2018-07 in the third quarter of 2018 and our adoption of this guidance did not have a significant impact on our financial statements.

Recently Issued Accounting Pronouncements Not Yet Adopted

In February 2016, the FASB issued ASU No. 2016-02, *Leases (Topic 842)* (ASU 2016-02), which requires a lessee to recognize a lease payment liability and a corresponding right of use asset on their balance sheet for all lease terms longer than 12 months. ASU 2016-02 is effective for public business entities for fiscal years beginning after December 15, 2018, including interim periods within those fiscal years. We will adopt ASU 2016-02 utilizing the modified retrospective transition method through an immaterial cumulative-effect adjustment to retained earnings at the beginning of the first quarter of 2019. We will continue to report financial information for fiscal years prior to 2019 under the current lease accounting standards. Based on our lease portfolio as of December 31, 2018, we expect to record additional lease assets and liabilities of less than five percent of total assets on our balance sheet, with no material impact to our statement of operations.

In June 2016, the FASB issued ASU No. 2016-13, *Financial Instruments – Credit Losses* (ASU 2016-13), which changes the accounting for recognizing impairments of financial assets. Under the new guidance, credit losses for certain types of financial instruments will be estimated based on expected losses. The new guidance also modifies the impairment models for available-for-sale debt securities and for purchased financial assets with credit deterioration since their origination. ASU 2016-13 is effective for public business entities for fiscal years beginning after December 15, 2019, including interim periods within those fiscal years, and early adoption is permitted. We are currently evaluating the impact that this guidance will have on our financial statements.

In January 2017, the FASB issued ASU No. 2017-04, *Intangibles – Goodwill and Other (Topic 350): Simplifying the Test for Goodwill Impairment* (ASU 2017-14). This new guidance eliminates the requirement to calculate the implied fair value of goodwill to measure a goodwill impairment charge. Instead, entities will record an impairment charge based on the excess of a reporting unit's carrying amount over its fair value. ASU 2017-14 is effective for public business entities for fiscal years

beginning after December 15, 2019, including interim periods within those fiscal years, and early adoption is permitted. We are currently evaluating the impact that this guidance will have on our financial statements.

In August 2017, the FASB issued ASU No. 2017-12, *Derivatives and Hedging* (ASU 2017-12), which is intended to more closely align hedge accounting with companies' risk management strategies, simplify the application of hedge accounting and increase transparency regarding the scope and results of hedging programs. The guidance in this update will be applied using a cumulative-effect adjustment to retained earnings at the beginning of the fiscal year of adoption. ASU 2017-12 is effective for public business entities for fiscal years beginning after December 15, 2018, including interim periods within those fiscal years. We are currently evaluating the impact that this guidance will have on our financial statements.

In August 2018, the FASB issued ASU No. 2018-13, *Fair Value Measurement: Disclosure Framework – Changes to the Disclosure Requirements for Fair Value Measurement* (ASU 2018-13), which adds and modifies certain disclosure requirements for fair value measurements. Under the new guidance, entities will no longer be required to disclose the amount of and reasons for transfers between Level 1 and Level 2 of the fair value hierarchy, or valuation processes for Level 3 fair value measurements. However, public business entities will be required to disclose the range and weighted average of significant unobservable inputs used to develop Level 3 fair value measurements, and related changes in unrealized gains and losses included in other comprehensive income. ASU 2018-13 is effective for public business entities for fiscal years beginning after December 15, 2019, including interim periods within those fiscal years, and early adoption is permitted. We are currently evaluating the impact that this guidance will have on our financial statements.

In August 2018, the FASB issued ASU No. 2018-15, *Intangibles – Goodwill and Other – Internal-Use Software: Customer's Accounting for Implementation Costs Incurred in a Cloud Computing Arrangement that is a Service Contract* (ASU 2018-05). This new guidance requires a customer in a cloud computing arrangement to determine which implementation costs to capitalize as assets or expense as incurred. Capitalized implementation costs related to a hosting arrangement that is a service contract will be amortized over the term of the hosting arrangement, beginning when the module or component of the hosting arrangement is ready for its intended use. ASU 2018-05 is effective for public business entities for fiscal years beginning after December 15, 2019, including interim periods within those fiscal years, and early adoption is permitted. Application of this guidance can be applied either prospectively or retrospectively. We are currently evaluating the impact that this guidance will have on our financial statements.

2. Development and Other Agreements

Collaboration with Verily Life Sciences

On November 20, 2018, we entered into an Amended and Restated Collaboration and License Agreement with Verily Life Sciences LLC (an Alphabet Company) and Verily Ireland Limited (collectively, Verily), which we refer to as the Restated Collaboration Agreement. This replaced our original Collaboration and License Agreement with Verily dated August 10, 2015, as amended in October 2016, including the royalty obligations provisions under that original agreement. Pursuant to the Restated Collaboration Agreement, we and Verily have agreed to continue to jointly develop a certain next-generation CGM product, and potentially one or more additional CGM products, for which we will have exclusive commercialization rights.

The Restated Collaboration Agreement also provides us with an exclusive license to use intellectual property of Verily resulting from the collaboration, and certain Verily patents, in the development, manufacture and commercialization of blood-based or interstitial glucose monitoring products more generally (subject to certain exclusions, which are outside of the CGM field as it is commonly understood). It also provides us with non-exclusive license rights under Verily's other intellectual property rights to develop, manufacture and commercialize those kinds of glucose monitoring products and certain CGM-product companion software functionalities. The Restated Collaboration Agreement requires us to use commercially reasonable efforts to develop, launch and commercialize the CGM product(s) that are the subject of the collaboration according to certain timing and other objectives, and provides for one executive sponsor from each of DexCom and Verily to meet periodically and make decisions related to the collaboration (within a limited scope of authority) by consensus.

In consideration of Verily's performance of its obligations under the joint development plan of the Restated Collaboration Agreement, the licenses granted to us and the amendment of the original agreement, we made an upfront payment and we will make potential future milestone and incentive payments upon the achievement of certain goals. In the fourth quarter of 2018, we made an initial payment of $250.0 million through the issuance of 1,840,943 shares of our common stock. We recorded a $217.7 million charge in our statement of operations during 2018 relating to the issuance of this common stock because this milestone payment did not meet the capitalization criteria. The amount of the charge was based on our closing stock price of $118.28 per share on December 28, 2018, the date on which we obtained the necessary regulatory approvals and the transaction closed. Additional milestone and incentive payments of up to a total of $280.0 million may become due and payable by us upon the achievement of future development, product regulatory approval and revenue milestones. $275.0 million of these payments may be paid in cash or shares of our common stock, at our election. If we elect to make all $275.0 million of these payments in

shares, we will issue a total of 2,025,036 shares of our common stock, based on the volume weighted average trading price during the 15 consecutive days ending on the date of the Restated Collaboration Agreement.

The Restated Collaboration Agreement will continue until December 31, 2028, unless terminated by either party upon uncured material breach of the Restated Collaboration Agreement by the other party. Upon achievement of the first revenue milestone event and payment of the corresponding milestone fee by us, the term of the Restated Collaboration Agreement will be extended until December 31, 2033.

3. Fair Value Measurements

Assets and Liabilities Measured at Fair Value on a Recurring Basis

We estimate the fair value of our Level 1 financial instruments, which are in active markets, using unadjusted quoted market prices for identical instruments.

We obtain the fair values for our Level 2 financial instruments, which are not in active markets, from a primary professional pricing source that uses quoted market prices for identical or comparable instruments, rather than direct observations of quoted prices in active markets. Fair values obtained from this professional pricing source can also be based on pricing models whereby all significant observable inputs, including maturity dates, issue dates, settlement date, benchmark yields, reported trades, broker-dealer quotes, issue spreads, benchmark securities, bids, offers or other market related data, are observable or can be derived from, or corroborated by, observable market data for substantially the full term of the asset. We validate the quoted market prices provided by our primary pricing service by comparing the fair values of our Level 2 marketable securities portfolio balance provided by our primary pricing service against the fair values of our Level 2 marketable securities portfolio balance provided by our investment managers.

The following table summarizes financial assets that we measured at fair value on a recurring basis as of December 31, 2018, classified in accordance with the fair value hierarchy:

	Fair Value Measurements Using			
(In millions)	**Level 1**	**Level 2**	**Level 3**	**Total**
Cash equivalents	$ 199.3	$ 66.7	$ —	$ 266.0
Equity investment in Tandem Diabetes Care, Inc.	38.0	—	—	38.0
Debt securities, available for sale:				
U.S. government agencies	—	173.1	—	173.1
Commercial paper	—	36.2	—	36.2
Corporate debt	—	1.3	—	1.3
Total debt securities, available for sale	—	210.6	—	210.6
Total assets measured at fair value on a recurring basis	$ 237.3	$ 277.3	$ —	$ 514.6

The following table summarizes financial assets that we measured at fair value on a recurring basis as of December 31, 2017, classified in accordance with the fair value hierarchy:

	Fair Value Measurements Using			
(In millions)	Level 1	Level 2	Level 3	Total
Cash equivalents	$ 306.6	$ 38.0	$ —	$ 344.6
Debt securities, available for sale:				
U.S. government agencies	—	87.3	—	87.3
Commercial paper	—	14.7	—	14.7
Corporate debt	—	5.1	—	5.1
Total debt securities, available for sale	—	107.1	—	107.1
Total assets measured at fair value on a recurring basis	$ 306.6	$ 145.1	$ —	$ 451.7

There were no transfers between Level 1 and Level 2 securities during the years ended December 31, 2018 and December 31, 2017. There were no transfers into or out of Level 3 securities during the years ended December 31, 2018 and 2017.

We hold certain other investments that we do not measure at fair value on a recurring basis. The carrying values of these investments are not significant and we include them in other assets in our balance sheets. It is impracticable for us to estimate the fair value of these investments on a recurring basis due to the fact that these entities are often privately held and limited information is available. We monitor the information that becomes available from time to time and adjust the carrying values of these investments if there are identified events or changes in circumstances that have a significant adverse effect on the fair values.

Financial liabilities whose fair values we measure on a recurring basis using Level 1 inputs consist of our outstanding 2022 Notes and 2023 Notes. We measure the fair value of the 2022 Notes and 2023 Notes based on their trading prices. The fair value of the 2022 Notes was $540.2 million at December 31, 2018 and $381.3 million at December 31, 2017. The fair value of the 2023 Notes was $859.6 million at December 31, 2018. For more information on the carrying values of our 2022 Notes and 2023 Notes see Note 5, “Debt.”

Foreign Currency and Derivative Financial Instruments

We currently engage in limited hedging transactions to reduce foreign currency risks on certain intercompany balances. The fair values of these derivatives are based on quoted market prices, which are Level 1 inputs.

As of December 31, 2018, a notional amount of $60.0 million was outstanding to hedge currency risk relating to certain intercompany balances. Derivative instrument gains on forward exchange contracts were $0.4 million for the twelve months ended December 31, 2018 and are included in interest and other income (expense), net in our statement of operations. The fair value of the forward contract exchange derivative instrument liability was $0.2 million as of December 31, 2018. We record derivative instruments in other current assets or other current liabilities in our balance sheets consistent with the nature of the instrument at period end. We entered into no foreign currency forward contracts during 2017 or 2016.

Our foreign currency exposures vary but are primarily concentrated in the British Pound, the Euro, and the Canadian Dollar. We monitor the costs and the impact of foreign currency risks upon our financial results as part of our risk management program. We do not use derivative financial instruments for speculation or trading purposes or for activities other than risk management. We do not require and are not required to pledge collateral for these financial instruments and we do not carry any master netting arrangements to mitigate the credit risk.

Assets and Liabilities Measured at Fair Value on a Non-Recurring Basis

In accordance with authoritative guidance, we measure certain non-financial assets and liabilities at fair value on a non-recurring basis. These measurements are usually performed using the discounted cash flow method and Level 3 inputs. These include items such as non-financial assets and liabilities initially measured at fair value in a business combination and non-financial long-lived assets measured at fair value for an impairment assessment. In general, non-financial assets, including goodwill, intangible assets, and property and equipment, are measured at fair value when there are indicators of impairment and are recorded at fair value only when any impairment is recognized.

See *"Property and Equipment"* in Note 4 for information about property and equipment impairment losses that we recorded during the twelve months ended December 31, 2018 and 2017. There were no indicators of impairment and we recorded no significant impairment losses on goodwill or intangible assets during the twelve months ended December 31, 2018, 2017 and 2016.

4. Balance Sheet Details

Short-Term Marketable Securities

Short-term marketable securities, consisting of equity securities and debt securities, were as follows as of the dates indicated:

	December 31, 2018			
(In millions)	Cost or Amortized Cost	Gross Unrealized Gains	Gross Unrealized Losses	Estimated Market Value
Equity investment in Tandem Diabetes Care, Inc	$ 2.0	$ 36.0	$ —	$ 38.0
Debt securities, available for sale:				
U.S. government agencies	173.2	—	(0.1)	173.1
Commercial paper	36.2	—	—	36.2
Corporate debt	1.3	—	—	1.3
Total debt securities, available for sale	210.7	—	(0.1)	210.6
Total marketable securities	$ 212.7	$ 36.0	$ (0.1)	$ 248.6

	December 31, 2017			
(In millions)	Amortized Cost	Gross Unrealized Gains	Gross Unrealized Losses	Estimated Market Value
Debt securities, available for sale:				
U.S. government agencies	$ 87.5	$ —	$ (0.2)	$ 87.3
Commercial paper	14.7	—	—	14.7
Corporate debt	5.1	—	—	5.1
Total debt securities, available for sale	$ 107.3	$ —	$ (0.2)	$ 107.1

As of December 31, 2018, all of our debt securities had contractual maturities of less than 12 months. As of December 31, 2017, the estimated market value of debt securities with contractual maturities of less than 12 months was $92.7 million; the remaining debt securities that we held at that date had an estimated market value of $14.4 million and contractual maturities of up to 16 months.

Gross realized gains and losses on our debt securities for the twelve months ended December 31, 2018, 2017 and 2016 were not significant.

We periodically review our portfolio of debt securities to determine if any investment is other-than-temporarily impaired due to changes in credit risk or other potential valuation concerns. We believe that the investments we held at December 31, 2018 were not other-than-temporarily impaired. Unrealized losses on available-for-sale debt securities at that date were not significant and were due to changes in interest rates, including market credit spreads, and not due to increased credit risks associated with specific securities. We do not intend to sell these investments and it is not more likely than not that we will be required to sell the investments before recovery of their amortized cost bases, which may be at maturity.

The following table reconciles the net gain recognized on equity securities during the twelve months ended December 31, 2018, 2017 and 2016 to the unrealized gain recognized during those periods on equity securities still held at the reporting dates.

	Twelve Months Ended December 31,		
(In millions)	**2018**	**2017**	**2016**
Net gains recognized during the period on equity securities	$ 80.1	$ —	$ —
Less: Net gains recognized during the period on equity securities sold during the period	(44.1)	—	—
Unrealized gains recognized during the reporting period on equity securities still held at the reporting date	$ 36.0	$ —	$ —

Accounts Receivable

	December 31,	
(In millions)	**2018**	**2017**
Accounts receivable	$ 233.9	$ 145.8
Less allowance for doubtful accounts	(7.2)	(11.5)
Total accounts receivable, net	$ 226.7	$ 134.3

Inventory

	December 31,	
(In millions)	**2018**	**2017**
Raw materials	$ 30.8	$ 20.0
Work-in-process	11.2	8.2
Finished goods	28.7	17.0
Total inventory	$ 70.7	$ 45.2

During the twelve months ended December 31, 2018, we recorded excess and obsolete inventory charges of $7.3 million in cost of goods sold that were primarily related to the approval and launch of our G6 System and the continuous improvement and innovation of our products.

During the twelve months ended December 31, 2016, we recorded excess and obsolete inventory charges of $3.5 million in cost of goods sold that were related to the February 2016 customer notification regarding the audible alarms and alerts associated with our receivers. This notification was classified as a voluntary Class 1 recall by the Food and Drug Administration, or FDA, and was closed by the FDA in August 2017.

Property and Equipment

(In millions)	December 31, 2018	December 31, 2017
Building [1]	$ 6.0	$ 6.0
Furniture and fixtures	9.0	5.7
Computer software and hardware	29.2	25.6
Machinery and equipment	80.7	33.8
Leasehold improvements	80.7	41.7
Construction in progress [2]	57.3	87.6
Total cost	262.9	200.4
Less accumulated depreciation and amortization	(79.8)	(54.8)
Total property and equipment, net	$ 183.1	$ 145.6

[1] As described in Note 6, "Commitments," although we do not legally own these premises, we were deemed the owner of the construction project during the construction period of our manufacturing facility in Mesa, Arizona under a build-to suit lease arrangement. We placed the facility into service in 2018 and as of December 31, 2018 had recorded accumulated amortization of $0.7 million.

[2] Construction in progress as of December 31, 2018 and December 31, 2017 included approximately $6.2 million and $33.6 million, respectively, related to our manufacturing facility in Mesa, Arizona with the remaining balances as of those dates primarily related to machinery and equipment.

Depreciation expense related to property and equipment for the twelve months ended December 31, 2018, 2017 and 2016 was $28.6 million, $16.1 million, and $14.4 million, respectively.

During the twelve months ended December 31, 2018, we recorded a $5.4 million loss on disposal of property and equipment. The loss on disposal was primarily associated with changes in our product portfolio and was recorded in operating expenses, primarily in research and development expense in our statement of operations.

During the twelve months ended December 31, 2017, we recorded a $11.0 million loss on disposal of property and equipment, the majority of which was previously contained within the construction in progress balance. The loss on disposal was primarily associated with changes in our product portfolio and was recorded in operating expenses, primarily in research and development expense in our statement of operations.

Accounts Payable and Accrued Liabilities

(In millions)	December 31, 2018	December 31, 2017
Accounts payable trade	$ 75.5	$ 46.7
Accrued tax, audit, and legal fees	11.7	7.1
Accrued rebates	36.1	13.9
Accrued warranty	6.8	8.8
Accrued other	17.0	10.7
Total accounts payable and accrued liabilities	$ 147.1	$ 87.2

Accrued Warranty

Warranty costs are reflected in our statements of operations as cost of product sales. Reconciliations of our accrued warranty costs for the twelve months ended December 31, 2018 and 2017 were as follows:

(In millions)	Twelve Months Ended December 31, 2018	Twelve Months Ended December 31, 2017
Beginning balance	$ 8.8	$ 9.8
Charges to costs and expenses	17.4	18.4
Costs incurred	(19.4)	(19.4)
Ending balance	$ 6.8	$ 8.8

Other Liabilities

(In millions)	December 31, 2018	2017
Financing lease obligations	$ 7.3	$ 6.7
Deferred rent	9.4	8.7
Other	3.3	2.8
Total other liabilities	$ 20.0	$ 18.2

5. Debt

Senior Convertible Notes

The carrying amounts of our senior convertible notes were as follows as of the dates indicated:

(In millions)	December 31, 2018	2017
0.75% Senior Convertible Notes due 2022:		
Principal amount	$ 400.0	$ 400.0
Unamortized debt discount	(51.1)	(64.4)
Unamortized debt issuance costs	(6.3)	(8.0)
Net carrying amount of Senior Convertible Notes due 2022	342.6	327.6
0.75% Senior Convertible Notes due 2023:		
Principal amount	850.0	—
Unamortized debt discount	(171.8)	—
Unamortized debt issuance costs	(10.5)	—
Net carrying amount of Senior Convertible Notes due 2023	667.7	—
Total net carrying amount of senior convertible notes	$ 1,010.3	$ 327.6
Fair value of outstanding notes:		
Senior Convertible Notes due 2022	$ 540.2	$ 381.3
Senior Convertible Notes due 2023	859.6	—
Total fair value of outstanding senior convertible notes	$ 1,399.8	$ 381.3
Amount by which the notes' if-converted value exceeds their principal amount:		
Senior Convertible Notes due 2022	$ 125.4	$ —
Senior Convertible Notes due 2023	—	—
Total by which the notes' if-converted value exceeds their principal amount	$ 125.4	$ —

0.75% Senior Convertible Notes due 2022

In May 2017, we completed an offering of $350.0 million aggregate principal amount of unsecured senior convertible notes with a stated interest rate of 0.75% and a maturity date of May 15, 2022 (the 2022 Notes). In June 2017, the initial purchasers exercised their option to purchase an additional $50.0 million aggregate principal amount of 2022 Notes. The net proceeds from the offering, after deducting initial purchasers' discounts and costs directly related to the offering, were approximately $389.0 million. The 2022 Notes may be settled in cash, stock, or a combination thereof, solely at our discretion. It is our current intent and policy to settle all 2022 Notes conversions in shares of our common stock. The initial conversion rate of the 2022 Notes is 10.0918 shares of common stock per $1,000 principal amount of notes, which is equivalent to a

conversion price of approximately $99.09 per share, subject to adjustments. We use the if-converted method for assumed conversion of the 2022 Notes to compute the weighted average shares of common stock outstanding for diluted earnings per share.

Since upon conversion by the holders we may elect to settle such conversion in shares of our common stock, cash, or a combination thereof, we accounted for the cash conversion option as an equity instrument classified to stockholders' equity. As a result, we recognized $72.6 million in additional paid-in capital during 2017.

The interest expense recognized on the 2022 Notes during the twelve months ended December 31, 2018 includes $3.0 million, $13.4 million and $1.6 million for the contractual coupon interest, the accretion of the debt discount and the amortization of the debt issuance costs, respectively. The interest expense recognized on the 2022 Notes during the twelve months ended December 31, 2017 includes $1.9 million, $8.2 million and $1.0 million for the contractual coupon interest, the accretion of the debt discount and the amortization of the debt issuance costs, respectively.

The effective interest rate on the 2022 Notes is 5.1%, which includes the interest on the notes, amortization of the debt discount and debt issuance costs. The discount on the 2022 Notes is being amortized through May 15, 2022. Interest on the 2022 Notes began accruing upon issuance and is payable semi-annually on May 15 and November 15 of each year.

In the event of a fundamental change (as defined in the indenture relating to the notes), holders of the 2022 Notes have the right to require us to repurchase for cash all or a portion of their notes at a price equal to 100% of the principal amount of the 2022 Notes, plus any accrued and unpaid interest. Holders of the 2022 Notes who convert their notes in connection with a make-whole fundamental change (as defined in the indenture) or following the delivery by DexCom of a notice of redemption are, under certain circumstances, entitled to an increase in the conversion rate.

Prior to 5:00 p.m., New York City time, on the business day immediately preceding February 15, 2022, holders of the 2022 Notes may convert all or a portion of their notes, in multiples of $1,000 principal amount, only under the following circumstances:

(1) during any calendar quarter commencing after September 30, 2017 (and only during such calendar quarter), if the last reported sale price of common stock for at least 20 trading days (whether or not consecutive) during the period of 30 consecutive trading days ending on the last trading day of the immediately preceding calendar quarter is greater than or equal to 130% of the applicable conversion price of the 2022 Notes on each such trading day;

(2) during the five business day period after any five consecutive trading day period in which the trading price per $1,000 principal amount of the 2022 Notes for each day of that five day consecutive trading day period was less than 98% of the product of the last reported sale price of common stock and the applicable conversion rate of the 2022 Notes on such trading day;

(3) if we call any or all of the 2022 Notes for redemption, at any time prior to the close on business on the scheduled trading day immediately preceding the redemption date; or

(4) upon the occurrence of specified corporate transactions.

On or after February 15, 2022, until 5:00 p.m., New York City time, on the business day immediately preceding the maturity date, holders of the 2022 Notes may convert all or a portion of their notes regardless of the foregoing circumstances.

DexCom may not redeem the 2022 Notes prior to May 15, 2020. On or after May 15, 2020, DexCom may redeem for cash all or part of the notes, at its option, if the last reported sale price of our common stock has been at least 140% of the conversion price then in effect for at least 20 trading days (whether or not consecutive) during any 30 consecutive trading day period ending on, and including, the trading day immediately preceding the date on which DexCom provides notice of redemption. The redemption price will be equal to 100% of the principal amount of the 2022 Notes to be redeemed plus accrued and unpaid interest to, but excluding, the redemption date.

No principal payments are due on the 2022 Notes prior to maturity. Other than restrictions relating to certain fundamental changes and consolidations, mergers or asset sales and customary anti-dilution adjustments, the indenture relating to the 2022 Notes includes customary terms and covenants, including certain events of default after which the 2022 Notes may be due and payable immediately.

Circumstance (1) listed above occurred during the last 30 trading days of the quarter ended September 30, 2018. As a result, the 2022 Notes became convertible at the option of the holders from October 1, 2018 and remained convertible until December 31, 2018. Holders of 2022 Notes with an insignificant principal amount exercised their option to convert their 2022 Notes which we settled with shares of our common stock during the fourth quarter of 2018.

0.75% Senior Convertible Notes due 2023

In November 2018, we completed an offering of $750.0 million aggregate principal amount of unsecured senior convertible notes with a stated interest rate of 0.75% and a maturity date of December 1, 2023 (the 2023 Notes). In November 2018, the initial purchasers exercised their option to purchase an additional $100.0 million aggregate principal amount of 2023 Notes. The net proceeds from the offering, after deducting initial purchasers' discounts and costs directly related to the offering, were approximately $836.6 million. The 2023 Notes may be settled in cash, stock, or a combination thereof, solely at our discretion. It is our current intent and policy to settle all 2023 Notes conversions through combination settlement, satisfying the principal amount outstanding with cash and any note conversion value in excess of the principal amount in shares of our common stock. The initial conversion rate of the 2023 Notes is 6.0869 shares of common stock per $1,000 principal amount of notes, which is equivalent to a conversion price of approximately $164.29 per share, subject to adjustments. We use the treasury stock method for assumed conversion of the 2023 Notes to compute the weighted average shares of common stock outstanding for diluted earnings per share. We entered into transactions for a convertible note hedge (the 2023 Note Hedge) and warrants (the 2023 Warrants) concurrently with the issuance of the 2023 Notes.

Since upon conversion by the holders we may elect to settle such conversion in shares of our common stock, cash, or a combination thereof, we accounted for the cash conversion option as an equity instrument classified to stockholders' equity. As a result, we recognized $174.4 million in additional paid-in capital during 2018.

The interest expense recognized on the 2023 Notes during the twelve months ended December 31, 2018 includes $0.5 million, $2.6 million and $0.2 million for the contractual coupon interest, the accretion of the debt discount and the amortization of the debt issuance costs, respectively. The effective interest rate on the 2023 Notes is 5.6%, which includes the interest on the notes, amortization of the debt discount and debt issuance costs. The discount on the 2023 Notes is being amortized through December 1, 2023. Interest on the 2023 Notes began accruing upon issuance and is payable semi-annually on June 1 and December 1 of each year.

Holders of the 2023 Notes have the right to require us to repurchase for cash all or a portion of their notes at 100% of their principal amount, plus any accrued and unpaid interest, upon the occurrence of a fundamental change (as defined in the indenture relating to the notes). We will also be required to increase the conversion rate for holders who convert their 2023 Notes in connection with certain fundamental changes occurring prior to the maturity date or following the delivery by DexCom of a notice of redemption.

Holders of the 2023 Notes may convert all or a portion of their notes at their option prior to 5:00 p.m., New York City time, on the business day immediately preceding September 1, 2023, in multiples of $1,000 principal amount, only under the following circumstances:

(1) during any calendar quarter commencing after March 31, 2019 (and only during such calendar quarter), if the last reported sale price of common stock for at least 20 trading days (whether or not consecutive) during the period of 30 consecutive trading days ending on the last trading day of the immediately preceding calendar quarter is greater than or equal to 130% of the applicable conversion price of the 2023 Notes on each such trading day;

(2) during the five business day period after any five consecutive trading day period in which the trading price per $1,000 principal amount of the 2023 Notes for each day of that five-day consecutive trading day period was less than 98% of the product of the last reported sale price of common stock and the applicable conversion rate of the 2023 Notes on such trading day;

(3) if we call any or all of the 2023 Notes for redemption, at any time prior to the close of business on the scheduled trading day immediately preceding the redemption date; or

(4) upon the occurrence of specified corporate transactions.

On or after September 1, 2023, until 5:00 p.m., New York City time, on the second scheduled trading day immediately preceding the maturity date, holders of the 2023 Notes may convert all or a portion of their notes regardless of the foregoing circumstances.

DexCom may not redeem the 2023 Notes prior to December 1, 2021. On or after December 1, 2021 and prior to September 1, 2023, DexCom may redeem for cash all or part of the 2023 Notes, at its option, if the last reported sale price of our common stock has been at least 130% of the conversion price then in effect for at least 20 trading days (whether or not consecutive) during any 30 consecutive trading day period ending on, and including, the trading day immediately preceding the date on which DexCom provides notice of redemption. The redemption price will be equal to 100% of the principal amount of the 2023 Notes to be redeemed plus accrued and unpaid interest to, but excluding, the redemption date.

No principal payments are due on the 2023 Notes prior to maturity. Other than restrictions relating to certain fundamental changes and consolidations, mergers or asset sales and customary anti-dilution adjustments, the indenture relating to the 2023

Notes includes customary terms and covenants, including certain events of default after which the 2023 Notes may be due and payable immediately. As of the date of these financial statements, we are unaware of any current events or market conditions that would allow holders to convert the 2023 Notes.

2023 Note Hedge

In connection with the offering of the 2023 Notes, in November 2018 we entered into convertible note hedge transactions with two of the initial purchasers of the 2023 Notes (the 2023 Counterparties) entitling us to purchase up to 5.2 million shares of our common stock at an initial price of $164.29 per share, each of which is subject to adjustment. The cost of the 2023 Note Hedge was $218.9 million and we accounted for it as an equity instrument by recognizing $218.9 million in additional paid-in capital during 2018. The 2023 Note Hedge will expire on December 1, 2023. The 2023 Note Hedge is expected to reduce the potential equity dilution upon any conversion of the 2023 Notes and/or offset any cash payments we are required to make in excess of the principal amount of converted 2023 Notes if the daily volume-weighted average price per share of our common stock exceeds the strike price of the 2023 Note Hedge. The strike price of the 2023 Note Hedge initially corresponds to the conversion price of the 2023 Notes and is subject to certain adjustments under the terms of the 2023 Note Hedge. An assumed exercise of the 2023 Note Hedge by us is considered anti-dilutive since the effect of the inclusion would always be anti-dilutive with respect to the calculation of diluted earnings per share.

2023 Warrants

In November 2018, we also sold warrants to the 2023 Counterparties to acquire up to 5.2 million shares of our common stock. The 2023 Warrants require net share settlement and a pro rated number of warrants will expire on each of the 60 scheduled trading days starting on March 1, 2024. We received $183.8 million in cash proceeds from the sale of the 2023 Warrants, which we recorded in additional paid-in capital during 2018. The 2023 Warrants could have a dilutive effect on our earnings per share to the extent that the price of our common stock during a given measurement period exceeds the strike price of the 2023 Warrants. The strike price of the 2023 Warrants is initially $198.38 per share and is subject to certain adjustments under the terms of the warrant agreements. We use the treasury share method for assumed conversion of the 2023 Warrants when computing the weighted average common shares outstanding for diluted earnings per share.

Revolving Credit Agreement

Terms of the Revolving Credit Agreement

On December 19, 2018, we entered into an amended and restated $200.0 million revolving credit agreement (the Credit Agreement) with JPMorgan Chase Bank, NA, as administrative agent, Bank of America, Silicon Valley Bank, Union Bank and Bank of the West, amending and restating our June 2016 agreement with those counterparties. In addition to allowing borrowings in U.S. dollars, the Credit Agreement provides a $50.0 million sublimit for borrowings in Canadian Dollars, Euros, British Pounds, Swedish Kroner, Japanese Yen and any other currency that is subsequently approved by JPMorgan Chase and each lender. The Credit Agreement also provides a sub-facility of up to $10.0 million for letters of credit. Subject to customary conditions and the approval of any lender whose commitment would be increased, we have the option to increase the maximum principal amount available under the Credit Agreement by up to an additional $300.0 million, resulting in a maximum available principal amount of $500.0 million. However, at this time none of the lenders have committed to provide any such increase in their commitments. Borrowings under the Credit Agreement will be available for general corporate purposes, including working capital and capital expenditures.

Revolving loans under the Credit Agreement bear interest at our choice of one of two base rates plus a range of applicable margin rates that are based on our leverage ratio. The first base rate is the highest of (a) the publicly announced JPMorgan Chase prime rate, (b) the federal funds rate, or (c) the overnight bank funding rate, and the applicable margin rate ranges from 0.375% to 1.000%. The second base rate is a LIBOR-based rate, and the applicable margin rate ranges from 1.375% to 2.000%. We will also pay a commitment fee of between 0.2% and 0.3%, payable quarterly in arrears, on the average daily unused amount of the revolving facility based on our leverage ratio. The aggregate debt issuance costs and fees incurred with respect to entering into the Credit Agreement were $1.5 million, which have been capitalized in other assets in our balance sheets and will be amortized through the maturity date of December 2023 on a straight line basis.

The Credit Agreement will mature on the earlier to occur of (i) December 19, 2023 or (ii) 91 days prior to the maturity date of the 2022 Notes or (iii) 91 days prior to the maturity date of the 2023 Notes if both (a) the aggregate outstanding principal amount of the 2022 Notes or the 2023 Notes, as applicable, is greater than EBITDA for the period of four consecutive fiscal quarters ending prior to such date and (b) unrestricted domestic cash on hand is less than the aggregate outstanding principal amount of the 2022 Notes or the 2023 Notes, as applicable, plus $100.0 million. The full balance of the revolving loans and all other obligations under the Credit Agreement must be paid on the maturity date.

Our obligations under the Credit Agreement are guaranteed by our existing and future wholly-owned domestic subsidiaries, and are secured by a first-priority security interest in substantially all of the assets of DexCom and the guarantors,

including all or a portion of the equity interests of our domestic subsidiaries and first-tier foreign subsidiaries but excluding real property and intellectual property (which is subject to a negative pledge). The Credit Agreement contains covenants that limit certain indebtedness, liens, investments, transactions with affiliates, dividends and other restricted payments, subordinated indebtedness and amendments to subordinated indebtedness documents, and sale and leaseback transactions of DexCom or any of its domestic subsidiaries. The Credit Agreement also requires us to maintain a maximum leverage ratio and a minimum fixed charge coverage ratio. We were in compliance with these covenants as of December 31, 2018.

Short-Term Borrowings

In March 2017, we drew $75.0 million on the Credit Agreement under a six month term. We repaid the entire principal balance in May 2017. As of December 31, 2018, we had no outstanding borrowings, letters of credit totaling $4.4 million, and a total available balance of $195.6 million under the Credit Agreement.

6. Commitments

Leases

Our corporate headquarters and primary manufacturing facilities are located in San Diego, California. We lease approximately 219,000 square feet of space in San Diego under leases that expire in February and March 2022. We have the option to renew each of these leases for two additional five-year terms. We lease approximately 87,000 square feet of space in San Diego under a lease that expires in February 2022 with no renewal options. We also lease approximately 132,600 square feet of space in San Diego under a sublease that expires in January 2022.

We lease approximately 148,800 square feet of space in Mesa, Arizona under a lease that expires in March 2028. We have the option to renew this lease for four additional five-year terms. The Mesa lease is a build-to-suit arrangement for a manufacturing facility where we were involved in the design and construction of the leased space, including non-standard tenant improvements that we paid for. For accounting purposes, we were considered the owner of the construction project during the construction period; as a result, during 2016 we capitalized the $6.0 million fair value of the Mesa building in property and equipment and recorded a corresponding financing lease obligation liability of $6.0 million in other liabilities in our balance sheet. We concluded that the Mesa lease does not qualify for "sale-leaseback" treatment due to prohibited continuing involvement, so we have treated the Mesa lease as a financing arrangement.

We have also entered into other operating lease agreements, primarily for office and warehouse space, that expire at various times through July 2026.

Future minimum rental obligations under all lease agreements as of December 31, 2018 were as shown in the table below. These obligations exclude real estate taxes, operating costs and tenant improvement allowances and include the financing lease obligation for our Mesa facility.

Fiscal Year Ending	*(In millions)*
2019	$ 14.4
2020	16.9
2021	17.3
2022	6.6
2023	4.7
Thereafter	8.9
Total	$ 68.8

Total rent expense for the twelve months ended December 31, 2018, 2017 and 2016 was $12.5 million, $11.1 million and $9.0 million, respectively.

Purchase Commitments

We are party to various purchase arrangements related to our manufacturing and research and development activities, including for materials used in our CGM systems. As of December 31, 2018, we had firm purchase commitments with vendors totaling $204.0 million, most of which are due within one year.

7. Contingencies

Litigation

On March 28, 2016, AgaMatrix, Inc., or AgaMatrix, filed a patent infringement lawsuit against us in the United States District Court for the District of Oregon, asserting that certain of our products infringe certain patents held by AgaMatrix. On June 6, 2016, AgaMatrix filed a First Amended Complaint asserting the same three patents. On February 24, 2017, the Court granted AgaMatrix's motion to substitute WaveForm Technologies, Inc., or WaveForm, as the new plaintiff following AgaMatrix's transfer of the three patents to its newly formed entity. On August 25, 2016, we filed petitions for *inter partes* review with the Patent Trial and Appeal Board, or PTAB, of the U.S. Patent and Trademark Office seeking a determination that two of the three asserted patents are invalid under U.S. patent law and those petitions were granted on March 6, 2017. On March 8, 2017, we filed a petition for *inter partes* review with the PTAB seeking a determination that the third of the three asserted patents is invalid under U.S. patent law. This petition was granted on September 15, 2017. The PTAB issued a Final Written Decision for each of the first two patents on February 28, 2018, where the PTAB found the majority of asserted claims from the first patent unpatentable and the remaining claims under review not unpatentable. The PTAB found all claims under review from the second patent not unpatentable. We believe the PTAB erred in finding any claims of the first two patents not unpatentable, and appealed the PTAB's decision to the United States Court of Appeals for the Federal Circuit, or Federal Circuit, on March 30, 2018. Briefing of the appeal is complete and we are currently awaiting the dates for oral argument from the Court of Appeals. The PTAB issued a Final Written Decision for the third patent on September 12, 2018, where the PTAB found all claims of the third patent asserted against us in the District of Oregon litigation unpatentable. WaveForm did not appeal this decision. On January 4, 2019, the parties stipulated to the dismissal of all claims and counterclaims regarding the third asserted patent. Most activity in the patent infringement lawsuit against us in the District of Oregon was stayed until the PTAB completed the *inter partes* review proceedings. That stay was lifted on October 10, 2018. The remaining claims and counterclaims will continue with an estimated date of trial in February 2020. It is our position that Waveform's assertions of infringement have no merit.

We have also filed several lawsuits against AgaMatrix. We filed a patent infringement lawsuit against AgaMatrix in the United States District Court for the Central District of California, or C.D. Cal., which is currently on appeal to the Federal Circuit based on a Final Judgment of non-infringement entered by the C.D. Cal. judge on February 23, 2018. AgaMatrix sought attorneys' fees for this lawsuit and as of December 31, 2018 we have accrued an immaterial amount for those fees. On September 15, 2017, we filed a patent infringement lawsuit against AgaMatrix in the United States District Court for the District of Delaware, asserting certain single-point blood glucose monitoring products of AgaMatrix infringe two patents held by us. In addition, on September 18, 2017, we filed a Complaint against AgaMatrix in the International Trade Commission, referred to as the ITC, requesting that the ITC institute an investigation and issue an order excluding certain products of AgaMatrix from importation into or sale in the United States based on AgaMatrix's infringement of the same two patents asserted in the Delaware litigation. On September 14, 2018, AgaMatrix filed two petitions for *inter partes* review for each of the same two patents we asserted in the District of Delaware and the ITC. We filed a response to all four petitions on December 17, 2018. AgaMatrix had requested additional briefing on the matter and the PTAB has authorized both sides to do so. Briefing was completed in January 2019.

Neither the outcome of these lawsuits nor the amount and range of potential loss associated with the lawsuits can be assessed at this time. Other than the attorneys' fees described above, as of December 31, 2018 we have accrued no amounts for contingent losses associated with these suits.

We are subject to various claims, complaints and legal actions that arise from time to time in the normal course of business, including commercial insurance, product liability and employment related matters. In addition, from time to time we may bring claims or initiate lawsuits against various third parties with respect to matters arising out of the ordinary course of our business, including commercial and employment related matters. We do not expect that the resolution of these matters would, or will, have a material adverse effect or material impact on our financial position or results of operations.

8. Income Taxes

Income (loss) before income taxes subject to taxes in the following jurisdictions is as follows:

	Twelve Months Ended December 31, 2018		
(In millions)	**2018**	**2017**	**2016**
United States	$ (28.3)	$ 12.4	$ (44.4)
Outside of the United States	(98.2)	(61.0)	(20.5)
Total	$ (126.5)	$ (48.6)	$ (64.9)

Significant components of the provision for income taxes are as follows:

	Twelve Months Ended December 31, 2018		
(In millions)	**2018**	**2017**	**2016**
Current:			
Federal	$ —	$ —	$ —
State	2.7	0.1	0.1
Foreign	0.1	1.5	0.8
Total current income taxes	2.8	1.6	0.9
Deferred:			
Federal	(1.7)	—	(0.1)
State	(0.5)	—	—
Foreign	—	—	(0.1)
Total deferred income taxes	(2.2)	—	(0.2)
Total	$ 0.6	$ 1.6	$ 0.7

On December 22, 2017, the Tax Cuts and Jobs Act of 2017 (the Act) was signed into law making significant changes to the Internal Revenue Code. Changes include, but are not limited to, a corporate tax rate decrease from 35% to 21% effective for tax years beginning after December 31, 2017, the transition of U.S international taxation from a worldwide tax system to a territorial system, and a one-time transition tax on the mandatory deemed repatriation of cumulative foreign earnings as of December 31, 2017. We made provisional estimates of the impact of the Act in our 2017 year end income tax provision in accordance with our understanding of the Act and guidance available as of the date of our 2017 financial statements. As a result, we reduced our net U.S. deferred tax assets by a provisional amount of $105.7 million offset by a decrease in the valuation allowance, resulting in no tax expense. The provisional amount related to the one-time transition tax on the mandatory deemed repatriation of foreign earnings was nil based on cumulative foreign deficits in earnings of $41.2 million.

On December 22, 2017, Staff Accounting Bulletin No. 118 (SAB 118) was issued to address the application of US GAAP in situations when a registrant does not have the necessary information available, prepared, or analyzed (including computations) in reasonable detail to complete the accounting for certain income tax effects of the Act. In accordance with SAB 118, the Company has determined that $105.7 million of deferred tax expense offset by an increase in valuation allowance in connection with the remeasurement of our U.S. deferred tax assets and liabilities, and the analysis of our foreign deficits in earnings in connection with the transition tax on the mandatory deemed repatriation of foreign earnings, were provisional amounts and reasonable estimates at December 31, 2017.

During 2018 we finalized the impact of remeasuring our net U.S. deferred tax assets resulting from the decrease in the federal tax rate. Our provisional estimate of the reduction in our U.S. deferred tax assets of $105.7 million decreased to $105.3 million, resulting in a $0.4 million increase to our opening balance of net U.S. deferred tax assets that was offset by an increase in the valuation allowance. The final amount related to the one-time mandatory deemed repatriation of foreign earnings is nil based on final cumulative foreign deficits of $24.6 million. The Act repealed U.S. taxation on the subsequent repatriation of foreign earnings. We intend to reinvest all of our foreign earnings and capital to support and expand existing operations outside the U.S. in those jurisdictions in which we would incur significant withholding taxes and other taxes upon repatriation of such amounts.

At December 31, 2018, we had federal, state and foreign tax net operating loss carryforwards of approximately $578.7 million, $417.2 million, and $129.3 million, respectively. The federal and state tax loss carryforwards will begin to expire in 2027 and 2025, respectively, unless previously utilized. The foreign net operating losses carry forward indefinitely.

At December 31, 2018, we also had federal and state research and development tax credit carryforwards of approximately $41.1 million and $41.4 million, respectively. $0.03 million of the federal research and development tax credit will begin to expire in 2020, unless previously utilized. The state research and development tax credit will carryforward indefinitely until utilized.

Utilization of net operating losses and credit carryforwards is subject to an annual limitation due to ownership change limitations provided by Section 382 and 383 of the Internal Revenue Code of 1986, as amended, and similar state provisions. An ownership change limitation occurred as a result of the stock offering completed in February 2009. The limitation will likely result in approximately $2.1 million of U.S. income tax credits that will expire unused. The related deferred tax assets have been removed from the components of our deferred tax assets as summarized in the table below. We performed a Section 382 study on the remaining federal and state net operating losses and tax credit carryforwards and have determined that there is no annual limitation on them as of December 31, 2018.

Significant components of our deferred tax assets as of December 31, 2018 and 2017 are shown below. A valuation allowance of approximately $330.1 million has been established as of December 31, 2018 to offset the deferred tax assets, as realization of such assets is uncertain. We maintain a deferred tax liability related to indefinite-lived intangible assets that is not netted against the deferred tax assets. Reversal of the taxable temporary difference for these intangible assets cannot serve as a source of income for realization of the deferred tax assets because the deferred tax liability will not reverse until the intangible assets are sold or written down due to impairment.

	December 31,	
(In millions)	**2018**	**2017**
Deferred tax assets:		
Net operating loss carryforwards	$ 162.0	$ 188.7
Capitalized research and development expenses	62.1	8.4
Tax credits	59.0	47.8
Share-based compensation	12.5	13.8
Fixed and intangible assets	16.0	0.4
Accrued liabilities and reserves	22.5	20.5
Total gross deferred tax assets	334.1	279.6
Less: valuation allowance	(330.1)	(263.5)
Total net deferred tax assets	4.0	16.1
Deferred tax liabilities:		
Fixed assets and acquired intangibles assets	(3.8)	(0.1)
Convertible debt discount	(0.1)	(15.9)
Total deferred tax liabilities	(3.9)	(16.0)
Net deferred tax assets (liabilities)	$ 0.1	$ 0.1

Of the $66.6 million increase in valuation allowance during the twelve months ended December 31, 2018, $56.9 million relates to income from continuing operations and $11.9 million relates to temporary differences established through additional paid-in capital, partially offset by $2.2 million that relates to temporary differences established through goodwill.

As of December 31, 2018, deferred tax assets for which any subsequently recognized tax benefits will be credited to additional paid-in capital rather than to income tax benefit totaled $56.2 million. In 2017 we adopted ASU 2016-09, *Compensation - Stock Compensation (Topic 718)* (ASU 2016-09), which was intended to simplify several areas of accounting for share-based payment arrangements, including the recognition for excess tax benefits and deficiencies. As a result of our adoption of ASU 2016-09, we recorded $161.8 million of excess tax benefits as an increase in deferred tax assets, with an offsetting increase in valuation allowance through retained earnings.

The reconciliation between our effective tax rate on income (loss) from continuing operations and the statutory rate is as follows:

	Twelve Months Ended December 31, 2018		
(In millions)	**2018**	**2017**	**2016**
Income taxes at statutory rates	$ (26.6)	$ (17.0)	$ (22.7)
State income tax, net of federal benefit	(5.5)	(0.7)	1.2
Permanent items	1.3	0.7	0.8
Research and development credits	(11.7)	(13.3)	(11.7)
Foreign rate differential	3.7	5.4	4.5
Stock and officers compensation	(5.1)	(10.4)	4.0
Rate change	—	(0.1)	(0.1)
Unrecognized tax benefits	—	(15.4)	27.7
Impact of adoption of ASU 2016-16	(13.3)	—	—
Impact of Tax Cuts and Jobs Act of 2017	(0.4)	105.7	—
Other	1.3	(2.2)	—
Change in valuation allowance	56.9	(51.1)	(3.0)
Income taxes at effective rates	$ 0.6	$ 1.6	$ 0.7

The following table summarizes the activity related to our gross unrecognized tax benefits:

(In millions)	
Balance at January 1, 2016	$ 15.6
Decreases related to prior year tax positions	(8.4)
Increases related to current year tax positions	32.6
Balance at December 31, 2016	39.8
Decreases related to prior year tax positions	(14.9)
Increases related to current year tax positions	3.3
Decrease related to Tax Cuts and Jobs Act of 2017	(5.4)
Balance at December 31, 2017	22.8
Decreases related to prior year tax positions	(0.3)
Increases related to current year tax positions	3.4
Balance at December 31, 2018	$ 25.9

Due to the valuation allowance recorded against our deferred tax assets, none of the total unrecognized tax benefits as of December 31, 2018 would reduce our annual effective tax rate if recognized. Interest and penalties are classified as a component of income tax expense and were not material for any period presented. Due to net operating losses incurred, tax years from 1999 and forward for federal and state purposes and from 2016 and forward for foreign jurisdictions remain open to examination by the major taxing jurisdictions to which we are subject. The IRS commenced an audit of our 2015 and 2016 federal income tax returns in February 2018. We expect that the audit will be completed in 2019. We do not expect any significant changes to our unrecognized tax benefits over the next twelve months.

9. Employee Benefit Plans and Stockholders' Equity

401(k) Plan

We have a defined contribution 401(k) retirement plan (the 401(k) Plan) covering substantially all employees in the United States that meet certain age requirements. Employees who participate in the 401(k) Plan may contribute up to 75% of their compensation each year, subject to Internal Revenue Service limitations and the terms and conditions of the plan. Under the terms of the 401(k) Plan, we may elect to match a discretionary percentage of contributions. In April 2018, we began

matching 50% of contributions up to 4% of annual compensation. Total matching contributions were $2.6 million for the twelve months ended December 31, 2018.

Employee Stock Purchase Plan, or ESPP

On May 28, 2015, our stockholders approved the 2015 Employee Stock Purchase Plan (the 2015 ESPP), which replaced our 2005 Employee Stock Purchase Plan. The 2015 ESPP permits our eligible employees to purchase discounted shares of our common stock at semi-annual intervals through periodic payroll deductions. A total of up to 1.5 million shares may be issued under the 2015 ESPP and it expires upon the earliest to occur of (a) termination of the 2015 ESPP by our board of directors, (b) issuance of all of the shares of common stock reserved for issuance under the plan, or (c) May 28, 2025.

Payroll deductions may not exceed 10% of the participant's cash compensation subject to certain limitations, and the purchase price will not be less than 85% of the lower of the fair market value of the common stock at either the beginning of the applicable Offering Period or the Purchase Date. Under our 2015 ESPP, each Offering Period is twelve months, with new Offering Periods commencing every six months on March 1 and September 1 of each year. Each Offering Period consists of two six-month purchase periods (each a Purchase Period) during which payroll deductions of the participants are accumulated under the ESPP. The last business day of each Purchase Period is referred to as the Purchase Date. Purchase Dates are every six months on February 28 or February 29 and August 31.

We issued 189,904 and 122,857 and 99,192 shares of common stock under the 2015 ESPP during the twelve months ended December 31, 2018, 2017 and 2016, respectively. We issued 8,539 shares of common stock under the 2005 ESPP during the twelve months ended December 31, 2016. As of December 31, 2018, there were 1.1 million shares available for issuance under the 2015 ESPP.

Treasury Stock

We repurchased 0.8 million shares of our common stock for $100.0 million during 2018. We repurchased all of these shares at the market prices on the trade dates; accordingly, all amounts paid to reacquire these shares have been recorded as treasury stock in our balance sheet as of December 31, 2018.

Repurchased shares of our common stock are held as treasury shares until they are reissued or retired. When we reissue treasury stock, if the proceeds from the sale are more than the average price we paid to acquire the shares we record an increase in additional paid-in capital. Conversely, if the proceeds from the sale are less than the average price we paid to acquire the shares, we record a decrease in additional paid-in capital to the extent of increases previously recorded for similar transactions and a decrease in retained earnings for any remaining amount.

We issue new shares of common stock to satisfy option exercises and RSU vesting under our employee equity incentive plans. We have not yet determined the ultimate disposition of the shares that we repurchased in 2018, and consequently we continue to hold them as treasury shares rather than retiring them.

Description of Equity Incentive Plans

In May 2015, we adopted the Amended and Restated 2015 Equity Incentive Plan (the 2015 Plan), which replaced our 2005 Equity Incentive Plan and provides for the grant of incentive and nonstatutory stock options, restricted stock, stock bonuses, stock appreciation rights, and restricted stock units to employees, directors or consultants of the Company. As of the date of adoption, a total of 4.0 million shares were reserved for issuance pursuant to the 2015 Plan. Shares forfeited under the 2005 Equity Incentive Plan subsequent to May 28, 2015 are returned to the share reserve under the 2015 Plan and will be available for future awards. Stockholder approval is required to increase the maximum number of shares that may be issued under the 2015 Plan.

Stock Options

We have not granted any stock options since 2010. A summary of our stock option activity and related information for the twelve months ended December 31, 2018 is as follows:

	Number of Shares (in millions)	Weighted-Average Exercise Price per Share	Weighted-Average Remaining Contractual Term (in years)	Aggregate Intrinsic Value (in millions)
Outstanding at December 31, 2017	0.4	$ 6.71		
Exercised	(0.3)	6.34		
Forfeited	—	—		
Outstanding at December 31, 2018	0.1	8.02	0.95	$ 9.6
Exercisable at December 31, 2018	0.1	$ 8.02	0.95	$ 9.6

The total intrinsic value of stock options exercised as of the date of exercise was as follows:

	Years Ended December 31,		
(In millions)	2018	2017	2016
Intrinsic value of options exercised	$ 30.0	$ 21.6	$ 39.9

We define in-the-money options at December 31, 2018 as options that had exercise prices that were lower than the $119.80 closing market price of our common stock at that date. There were 0.1 million in-the-money options exercisable at December 31, 2018. The aggregate intrinsic value of options outstanding at December 31, 2018 is calculated as the difference between the exercise price of the underlying options and the market price of our common stock for the 0.1 million options that were in-the-money at that date.

Expense and Valuation Information

The following table summarizes share-based compensation expense related to restricted stock units, stock options, and employee stock purchases under the ESPP for the twelve months ended December 31, 2018, 2017 and 2016:

	Years Ended December 31,		
(In millions)	2018	2017	2016
Cost of sales	$ 9.2	$ 9.6	$ 12.0
Research and development	33.0	37.5	39.8
Selling, general and administrative	59.7	59.1	59.0
Total share-based compensation expense included in net loss	$ 101.9	$ 106.2	$ 110.8

At December 31, 2018, unrecognized estimated compensation costs related to unvested restricted stock units totaled $126.5 million and are expected to be recognized through 2021.

We estimate the fair value of stock options granted and ESPP purchase rights on the date of grant using the Black-Scholes option pricing model and the assumptions below. We did not have any stock option grants during the twelve months ended December 31, 2018, 2017 and 2016.

	Years Ended December 31,		
ESPP	2018	2017	2016
Risk free interest rate	1.55 – 2.25	0.75 – 1.12	0.46 – 0.57
Dividend yield	—%	—%	—%
Expected volatility of DexCom common stock	0.50 – 0.67	0.33 – 0.56	0.33 – 0.57
Expected life (in years)	1	1	1

Restricted Stock Units (RSUs)

RSU awards typically vest annually over three or four years and vesting is subject to continued services. A summary of our RSU activity for the twelve months ended December 31, 2018, 2017 and 2016 is as follows:

(In millions except weighted average grant date fair value)	Shares	Weighted Average Grant Date Fair Value	Aggregate Intrinsic Value
Nonvested at December 31, 2015	4.1	$ 50.60	
Granted	1.9	68.16	
Vested	(2.1)	44.95	
Forfeited	(0.2)	56.37	
Nonvested at December 31, 2016	3.7	62.51	$ 218.6
Granted	1.3	75.78	
Vested	(1.9)	58.92	
Forfeited	(0.4)	67.97	
Nonvested at December 31, 2017	2.7	70.68	154.5
Granted	1.7	66.07	
Vested	(1.4)	68.44	
Forfeited	(0.3)	68.56	
Nonvested at December 31, 2018	2.7	$ 69.19	$ 319.0

The total vest-date fair value of RSUs vested was $120.9 million, $144.5 million and $150.0 million for the twelve months ended December 31, 2018, 2017 and 2016, respectively.

Reserved Shares

Shares of common stock reserved for future issuance were as follows as of the dated indicated:

	December 31,	
(In millions)	2018	2017
Stock options and awards under our plans:		
Stock options granted and outstanding	0.1	0.4
Unvested restricted stock units	2.7	2.7
Reserved for future grant	3.2	4.7
Employee Stock Purchase Plan	1.1	1.3
Total	7.1	9.1

10. Business Segment and Geographic Information

Reportable Segments

An operating segment is identified as a component of a business that has discrete financial information available and for which the chief operating decision maker must decide the level of resource allocation. In addition, the guidance for segment reporting indicates certain quantitative materiality thresholds. None of the components of our business meet the definition of an operating segment.

We currently consider our operations to be, and manage our business globally within, one reportable segment, which is consistent with how our President and Chief Executive Officer, who is our chief operating decision maker, reviews our business, makes investment and resource allocation decisions, and assesses operating performance.

Disaggregation of Revenue

DexCom is domiciled in the United States. We sell our durable systems and disposable sensors through a direct sales force in the United States, Canada and some countries in Europe, and through distribution arrangements in the United States, Canada, Australia, New Zealand, and some countries in Europe, Asia, Latin America, the Middle East and Africa. We disaggregate our revenue from contracts by geography and by major sales channel as we believe they best depict how the nature, amount and timing of revenues and cash flows are affected by economic factors.

Revenues by geographic region

During the twelve months ended December 31, 2018, 2017 and 2016, no individual country outside the United States generated revenue that represented more than 10% of our total revenue. The following table sets forth revenues by our two primary geographical markets, the United States and outside of the United States, based on the geographic location to which we deliver the product:

	Twelve Months Ended December 31,					
	2018		2017		2016	
(Dollars in millions)	Amount	% of Total	Amount	% of Total	Amount	% of Total
Revenues:						
United States	$ 818.4	79%	$ 596.2	83%	$ 497.5	87%
Outside of the United States	213.2	21%	122.3	17%	75.8	13%
Total	$ 1,031.6	100%	$ 718.5	100%	$ 573.3	100%

Substantially all of our long-lived assets are located in the United States.

Revenues by customer sales channel

The following table sets forth revenues by major sales channel for the twelve months ended December 31, 2018, 2017 and 2016:

	Twelve Months Ended December 31,					
	2018		2017		2016	
(Dollars in millions)	Amount	% of Total	Amount	% of Total	Amount	% of Total
Revenues:						
Distributor	$ 652.9	63%	$ 538.0	75%	$ 411.8	72%
Direct	378.7	37%	180.5	25%	161.5	28%
Total	$ 1,031.6	100%	$ 718.5	100%	$ 573.3	100%

11. Quarterly Financial Information (Unaudited)

The following is a summary of our quarterly results of operations for the years ended December 31, 2018 and 2017:

	For the Three Months Ended			
(In millions except per share data)	**December 31**	**September 30**	**June 30**	**March 31**
Year ended December 31, 2018				
Revenues	$ 338.0	$ 266.7	$ 242.5	$ 184.4
Gross profit	222.8	168.6	153.6	118.9
Total operating expenses	387.4	154.7	158.5	149.6
Net income (loss)	(179.7)	46.6	30.2	(24.2)
Basic net income (loss) per share [(a)]	$ (2.03)	$ 0.53	$ 0.34	$ (0.28)
Diluted net income (loss) per share [(a)]	$ (2.03)	$ 0.52	$ 0.34	$ (0.28)
Year ended December 31, 2017				
Revenues	$ 221.0	$ 184.6	$ 170.6	$ 142.3
Gross profit	153.5	127.0	117.5	94.1
Total operating expenses	141.5	127.5	131.1	134.5
Net income (loss)	(9.4)	(2.0)	2.9	(41.7)
Basic net income (loss) per share [(a)]	$ (0.11)	$ (0.02)	$ 0.03	$ (0.49)
Diluted net income (loss) per share [(a)]	$ (0.11)	$ (0.02)	$ 0.03	$ (0.49)

[(a)] Basic and diluted earnings per share are computed independently for each of the quarters presented. Therefore, the sum of quarterly basic and diluted per share information may not equal annual basic and diluted earnings per share.

DEXCOM, INC.
SCHEDULE II – VALUATION AND QUALIFYING ACCOUNTS

For the Years Ended December 31, 2018, 2017 and 2016
(in millions)

Allowance for doubtful accounts		
Balance December 31, 2015	$	7.8
Provision for doubtful accounts		9.5
Write-offs and adjustments		(5.6)
Recoveries		0.7
Balance December 31, 2016	$	12.4

Allowance for doubtful accounts		
Balance December 31, 2016	$	12.4
Provision for doubtful accounts		5.3
Write-offs and adjustments		(7.0)
Recoveries		0.7
Balance December 31, 2017	$	11.4

Allowance for doubtful accounts		
Balance December 31, 2017	$	11.4
Provision for doubtful accounts		3.6
Write-offs and adjustments		(8.3)
Recoveries		0.5
Balance December 31, 2018	$	7.2

[***] = CERTAIN CONFIDENTIAL INFORMATION CONTAINED IN THIS DOCUMENT, MARKED BY BRACKETS AND ASTERISKS, HAS BEEN OMITTED AND FILED SEPARATELY WITH THE SECURITIES AND EXCHANGE COMMISSION PURSUANT TO RULE 24B-2 OF THE SECURITIES EXCHANGE ACT OF 1934, AS AMENDED. CONFIDENTIAL TREATMENT HAS BEEN REQUESTED WITH RESPECT TO THE OMITTED INFORMATION.

EXECUTION COPY
CONFIDENTIAL

AMENDED AND RESTATED COLLABORATION AND LICENSE AGREEMENT

This AMENDED AND RESTATED COLLABORATION AND LICENSE AGREEMENT (the "**Agreement**") is executed on November 20, 2018 (the "**Effective Date**") (as defined below) by and between DexCom, Inc., ("**DexCom**") having its principal place of business at 6340 Sequence Drive, San Diego, California 92121, Verily Ireland Limited ("**VIL**") having its principal place of business at 70 Sir John Rogerson's Quay, Dublin 2, Ireland and Verily Life Sciences LLC (formerly Google Life Sciences LLC) ("**VLS**" and together with VIL, "**Verily**"), having its principal place of business at 1600 Amphitheatre Parkway, Mountain View, California 94043, and amends and restates in its entirety that certain Collaboration and License Agreement dated as of August 10, 2015 ("**Original Effective Date**") by and between DexCom and Verily (as amended by Amendment No. 1 thereto effective as of October 25, 2016, the "**Original Agreement**"). DexCom and Verily are each referred to herein by name or, individually, as a "**Party**" or, collectively, as "**Parties**."

BACKGROUND

A. Verily has rights to certain proprietary technologies related to electronic devices and assemblies for glucose monitoring, including receiving and transmitting electronic signals in connection therewith.

B. DexCom develops, manufactures and distributes continuous glucose monitoring systems and components of such systems, and has rights to certain proprietary technologies relating to such systems.

C. Verily and DexCom wish to collaboratively develop Future Products (as defined below) and for DexCom to commercialize such Future Products, all on the terms and conditions set forth herein.

D. In order to better align the goals and interests of the parties, Verily and DexCom wish to amend certain terms of the Original Agreement, and to restate the Original Agreement, as so amended, in its entirety in this Agreement, all on the terms and conditions set forth below.

NOW, THEREFORE, in consideration of the mutual covenants and agreements provided herein below and other consideration, the receipt and sufficiency of which is hereby acknowledged, DexCom and Verily hereby agree as follows:

Article 1.
DEFINITIONS

The following capitalized terms shall have the meanings given in this Article 1 when used in this Agreement:

1.1 "**510(k)**" means a pre-market notification submitted to the FDA for clearance under Section 510(k) of the FD&C Act, 21 U.S.C. § 360(k), and 21 C.F.R. Part 807, Subpart E.

1.2 "**Acceptance Submission Notice**" has the meaning set forth in Section 3.9.1.

1.3 "**Acquirer**" means a Third Party with whom DexCom enters into a definitive agreement pursuant to which a Change of Control is effected.

1.4 "**Additional Product**" means any [***] that the Parties agree to [***] hereunder in accordance with Section 4.3, as such [***] may be updated or upgraded pursuant to the Final Additional Product Supplement.

1.5 "**Adverse Event**" means, with respect to a Product, any reportable event, as defined in the United States under 21 C.F.R. § 803.3 (or other applicable Law in the Territory) or pursuant to Good Clinical Practice.

1.6 "**Affiliate**" means (a) with respect to Verily, the subsidiaries of Verily, and (b) with respect to DexCom, any Person directly or indirectly controlling, controlled by or under common control with DexCom. For purposes of this Section 1.5 only, "control" means (a) direct or indirect ownership of more than fifty percent (50%) (or, if less than fifty percent (50%), the maximum ownership interest permitted by applicable Law) of the stock or shares having the right to vote for

the election of directors of such corporate entity or (b) the possession, directly or indirectly, of the power to direct, or cause the direction of, the management or policies of such entity, whether through the ownership of voting securities, by contract or otherwise. For the avoidance of doubt, the following shall not be Affiliates of Verily for purposes of this Agreement: (i) Alphabet Inc. or any subsidiaries of Alphabet Inc. other than Verily and its subsidiaries; (ii) Google LLC or any subsidiaries of Google LLC; (iii) Calico LLC, (iv) all portfolio companies of GV Management Company, L.L.C., CapitalG Management Company LLC or any other investment arm of Verily or Google Inc.; (v) all portfolio companies of Verily or Google Inc. or its subsidiaries in which such entity or entities hold securities primarily for investment purposes, and (vi) any joint venture entity formed by Verily or its subsidiaries together with one or more Third Parties unless Verily possesses the power to wholly-control such joint venture entity, whether through the ownership of voting securities, by contract, or otherwise.

1.7 "**Agreement**" has the meaning set forth in the Preamble.

1.8 "**Alliance Manager**" means the individual appointed by a Party to act as alliance manager for that Party.

1.9 "**Alphabet**" means Alphabet Inc. having its principal place of business at 1600 Amphitheatre Parkway, Mountain View, CA 94043.

1.10 "**Alternative Product**" means (a) any [***], or (b) if [***] elects not to submit [***] with respect to the applicable [***], then any [***], provided, however, that if [***], it being understood that in no event shall [***]. [***] shall be deemed to have occurred if either of the following occurs: [***]; or (ii) [***]. Notwithstanding the foregoing, with respect to any [***]. A [***] shall be subject to this Section 1.9 only if [***]. For purposes of this definition:

(i) "[***]" means a [***] that (in each case as compared to the [***] (1) comprises or utilizes (a) [***], (b) [***], (c) [***], (d) [***], (e) [***], (f) [***], and/or (g) [***], and (2) [***];

(ii) "**Sublicensee**" means a Third Party that has [***]; and

(iii) "[***]" means that [***].

1.11 "**Antitrust Clearance Date**" has the meaning set forth in the Stock Purchase Agreement.

1.12 "**Antitrust Law**" has the meaning set forth in the Stock Purchase Agreement.

1.13 "**Assigned Software**" means any [***] which (a) is [***] and/or (b) [***].

1.14 "**Bankruptcy Code**" has the meaning set forth in Section 14.12.

1.15 "[***]" has the meaning set forth in Section 7.1.2(b).

1.16 "**Business Day**" means any day other than a Saturday, Sunday or any other day on which commercial banks in the State of California, U.S.A. are authorized or required by Law to remain closed.

1.17 "[***]" means any of the following [***]: (a) [***]; and/or (b) [***].

1.18 "[***]" means any and all [***], (i) whether on a standalone basis or as integrated into, or connected with, other products, systems ([***]), or components (including but not limited to the Products), whether or not such products, systems, or components [***], and (ii) whether or not such [***]. [***] may include the following to the extent used or incorporated in such [***]: (a) [***]. [***] exclude [***]. If there is another method for [***] and the Parties agree in writing [***], then this definition will be expanded to include that method.

1.19 "**Change of Control**" means any merger, consolidation, sale of substantially all of the assets to which this Agreement relates, or similar transaction or series of transactions in which DexCom is the entity being acquired or selling such assets.

1.20 "**Chief Executive**" means the Chief Executive Officer of DexCom and/or the Chief Executive Officer of Verily, as applicable.

1.21 "**Collaboration**" means any and all activities performed by or on behalf of each Party under this Agreement.

1.22 "**Collaboration IP**" means any and all IP in subject matter conceived, developed or (in the case of IP in Software) authored by or on behalf of a Party and/or its Affiliates, and/or any

Third Party acting on such Party's behalf (or employees of the foregoing), in each case in the course of performing activities under the [***], and/or activities that have been or will be conducted under this Agreement, [***], at any time during the period from the Original Effective Date through the end of the Term of this Agreement (including, for the sake of clarity, the period beginning as of the Original Effective Date and ended on the Effective Date).

1.23 "**Collaboration Patent**" means any Patent that claims Collaboration IP.

1.24 "**Commercialization**" means, with respect to a [***] in connection with or support of any of the foregoing. Commercialization also includes activities with respect to [***]. "**Commercialize**" and "**Commercializing**" have their correlative meanings.

1.25 "**Commercialization Plan**" means a [***].

1.26 "**Commercially Reasonable Efforts**" means, with respect to a Party, the efforts and resources normally applied by such Party to its other programs and products of similar commercial potential at a similar stage in its product life, but no less than a sustained, continued and active commitment of efforts and resources (financial and otherwise) consistent with those normally applied in the medical device industry for novel, high-priority programs and products of similar commercial potential, provided that the determination of efforts and resources applied (or to be applied) by DexCom shall not take into consideration any of the payments made or to be made (including the possibility thereof) by DexCom to Verily under this Agreement. Without limiting the foregoing, Commercially Reasonable Efforts shall require the applicable Party to: (a) promptly assign responsibilities for activities for which it is responsible to specific employee(s) who are held accountable for the progress, monitoring and completion of such activities, (b) set and consistently seek to achieve meaningful objectives for carrying out such activities, and (c) consistently make and implement decisions and allocate the full complement of resources necessary or appropriate to advance progress with respect to and complete such objectives in an expeditious manner.

1.27 "**Communication IP**" means Collaboration IP in subject matter consisting of [***].

1.28 "**Competing Program**" means a [***].

1.29 "**Completed Deliverables**" has the meaning set forth in Section 3.9.1.

1.30 "**Confidential Information**" has the meaning set forth in Section 10.1.

1.31 "**Controlled**" means, with respect to any item of IP, the possession (whether by ownership or license, other than a license granted by one Party to the other pursuant to this Agreement), by a Party (or its Affiliates) of the ability to grant to the other Party an assignment, exclusivity, access, a license or a sublicense (as applicable), or a covenant, or to extend other rights as provided in this Agreement, to such IP, without violating the terms of any agreement or other arrangements with any Affiliate or Third Party existing at the time such Party (or its Affiliates) would be first required to grant any such assignment, exclusivity, access, license, sublicense, covenant, or any other right under this Agreement. For clarity, in the event an item of IP is "Controlled" by a Party as of the Original Effective Date or thereafter during the term of the Original Agreement and/or the Term, and is subsequently transferred to an Affiliate of such Party or a Third Party, such item shall continue to be covered by the licenses granted under this Agreement following such transfer (to the same extent, if any, that it was covered prior to such transfer).

1.32 "[***]" means, [***].

1.33 "**Defending Party**" has the meaning set forth in Section 9.4.

1.34 "**DexCom Indemnitees**" has the meaning set forth in Section 11.4.1.

1.35 "**Development**" means, with respect to a product, any and all development activities, including, to the extent applicable, use, electrical and mechanical design, chemistry and materials development, software and firmware development, [***] development and scale-up, design and process verification and validation, test method development, biocompatibility and toxicology, quality assurance/quality control development, statistical analysis, primary packaging development, [***] in support of Regulatory Approvals, [***] for the purposes of obtaining Regulatory Approvals, and development and implementation of (a) [***], (b) [***] and (c) [***]. "**Develop**" and "**Developed**" have their correlative meaning.

1.36 "**Development Completion**" means, with respect to a [***] completion of its obligations [***].

1.37 "**DexCom [***]**" has the meaning set forth in Section 7.1.5.

1.38 "**DexCom Deliverable**" has the meaning set forth in Section 11.4.3.

1.39 "**Development Plan**" means (a) [***] and (b) [***], the terms of which are incorporated by reference herein, as such plans may be amended or updated as provided in this Agreement (including any amendments [***]). The Parties acknowledge and agree that the [***], in effect as of the Effective Date, have been exchanged between the Parties in (or as one or more attachments to) a signed letter on the date hereof; provided, however, that the [***] is, as of the Effective Date, tentative and will be effective only upon mutual agreement of the Parties within ninety (90) days after the Effective Date.

1.40 "**[***]**" has the meaning set forth in Section 3.1.

1.41 "**DexCom**" has the meaning set forth in the Preamble.

1.42 "**DexCom Background IP**" means any and all IP (other than Collaboration IP) Controlled by DexCom and its Affiliates as of the Effective Date and/or at any time between the Effective Date and the end of the Term.

1.43 "**DexCom [***]**" means any present or future (a) [***], or (b) [***].

1.44 "**DexCom Collaboration IP**" has the meaning set forth in Section 9.1.1.

1.45 "**DexCom Collaboration Patents**" means any Collaboration Patents solely owned by DexCom and/or its Affiliates.

1.46 "**DexCom Common Stock**" means shares of common stock of DexCom.

1.47 "**DexCom Delay**" has the meaning set forth in Section 3.8.1.

1.48 "**DexCom IP**" means DexCom Collaboration IP and DexCom Background IP.

1.49 "**DexCom Other Collaboration IP**" means Collaboration IP in subject matter consisting of (i) [***] and/or (ii) [***], in each case (i) and (ii) where such Collaboration IP is conceived, developed, and/or authored solely by or on behalf of DexCom, and/or its Affiliates, and/or a Third Party acting on DexCom's behalf (or employees of the foregoing).

1.50 "**DexCom Programs**" means DexCom's programs [***].

1.51 "**Dispute**" has the meaning set forth in Section 13.1.

1.52 "**Enforcement Action**" has the meaning set forth in Section 9.5.2.

1.53 "**Enforcing Party**" has the meaning set forth in Section 9.5.4.

1.54 "**Effective Date**" has the meaning set forth in the preamble.

1.55 "[***]" means [***].

1.56 "[***]" means [***].

1.57 "**Executive Sponsor**" has the meaning set forth in Section 2.1.

1.58 "**Existing Distribution Agreement**" means that certain [***].

1.59 "**FDA**" means the United States Food and Drug Administration, or any successor agency thereto.

1.60 "**Final Additional Product Supplement**" has the meaning set forth in Section 4.3.

1.61 "**First Product**" means the [***].

1.62 "**Force Majeure Event**" has the meaning set forth in Section 14.9.

1.63 "**Future Products**" means the Products other than the First Product.

1.64 "**Good Clinical Practice**" means generally accepted standards for design, conduct, performance, monitoring, auditing, analysis and reporting of clinical trials.

1.65 "[***].

1.66 "**HSR Act**" means the Hart-Scott-Rodino Antitrust Improvements Act of 1976, as amended, and the rules and regulations promulgated thereunder.

1.67 "**Incentive Milestone Event**" has the meaning set forth in Section 8.2.3.

1.68 "**Indemnify**" has the meaning set forth in Section 11.4.1.

1.69 "**Initial VWAP**" means (i) if the Agreement is announced by press release prior to the open of trading on the Nasdaq Stock Market on the Effective Date, the VWAP of DexCom Common Stock on the day prior to the Effective Date, or (ii) if the Agreement is announced by press release after the close of trading on the Nasdaq Stock Market on the Effective Date, the VWAP of DexCom Common Stock on the Effective Date.

1.70 "[***]" has the meaning set forth in Section 7.6.1(a).

1.71 "[***]" has the meaning set forth in Section 7.6.3(e).

1.72 "**Infringing Product**" has the meaning set forth in Section 9.5.1.

1.73 "**IP**" means any and all intellectual property rights of every kind throughout the world, including any and all: (a) Patents, (b) rights in Software, (c) rights in Know-How, (d) copyrights, and registrations and applications for copyrights, and (e) rights and remedies against past, present and future infringement, misappropriation, or other violation thereof with respect to any of the foregoing.

1.74 "**Joint Collaboration IP**" means any and all Collaboration IP (other than the DexCom Collaboration IP and the Verily Collaboration IP). For clarity, Joint Collaboration IP shall include any and all Communication IP.

1.75 "**Joint Collaboration Know-How**" has the meaning set forth in Section 10.2.

1.76 "**Joint Collaboration Patent**" any Collaboration Patent jointly owned by Verily and DexCom.

1.77 "**Know-How**" means any proprietary data, results, material(s), technology, and nonpublic information of any type whatsoever, in any tangible or intangible form, including information, techniques, technology, prototypes, practices, commercial models (including product pricing and/or reimbursement models or strategies), trade secrets, software, algorithms, discoveries,

developments, inventions (whether patentable or not), methods, knowledge, know-how, skill, experience, chemical, pharmacological, toxicological and clinical test data and results, protocols and process for the conduct of pre-clinical and clinical studies, analytical and quality control results or descriptions, software and algorithms, reports and study reports.

1.78 "**Launch**" means the first bona fide, arm's length commercial sale of a Product that makes such Product generally commercially available in any country following receipt of Marketing Approval for such Product in such country. "**Launched**" has its correlative meaning.

1.79 "**Law**" means, individually and collectively, any and all laws, ordinances, orders, rules, rulings, directives and regulations of any kind whatsoever of any governmental authority or Regulatory Authority within the applicable jurisdiction.

1.80 "**Losses**" has the meaning set forth in Section 11.4.1.

1.81 "**Manufacture**" means all activities involved in manufacturing, preparing, quality control, testing, packaging and storing any of the products. "**Manufacturing**" has its correlative meaning.

1.82 "**Marketing Approval**" means, with respect to a Product in a particular jurisdiction, all clearances, approvals, licenses, registrations or authorizations necessary for the Commercialization of such Product in such jurisdiction in the indication(s) specified in the Specifications, including, only where mandatory for Commercialization of such Product, approval of labeling, price or reimbursement.

1.83 "**Milestone Date VWAP**" means, with respect to a Milestone Event, the VWAP of DexCom Common Stock as determined on the date that such Milestone Event is first achieved, as equitably adjusted to reflect any stock split, stock dividend, combination, reclassification, recapitalization or other similar event involving DexCom Common Stock.

1.84 "**Milestone Event**" has the meaning set forth in Section 8.2.1.

1.85 "**Milestone Payment**" has the meaning set forth in Section 8.2.1.

1.86 "**Onduo**" means Onduo, LLC, having its principal place of business at 55 Chapel Street Suite 10, Newton, Massachusetts 02458.

1.87 "**Original Agreement**" has the meaning set forth in the Preamble.

1.88 "**Original [***]**" means the [***] as defined under the Original Agreement as in effect at any relevant time during the term of the Original Agreement.

1.89 "**Outside Software**" has the meaning set forth in Section 2.3.2.

1.90 "**Party**" has the meaning set forth in the Preamble.

1.91 "**Patent**" means any of the following, whether existing now or in the future anywhere in the world: (a) any issued patent, including inventor's certificates, substitutions, extensions, confirmations, reissues, reexamination, renewal or any like governmental grant for protection of inventions; and (b) any pending application for any of the foregoing, including any continuation, divisional, substitution, continuations-in-part, provisional and converted provisional applications.

1.92 "**Permitted Encumbrances**" means the agreements between Verily and/or its Affiliates, Alphabet, or Alphabet Affiliates and a Third Party with respect to the Verily IP in the [***], as set out at Exhibit 1.92.

1.93 "**Person**" means any individual, corporation, partnership, association, joint-stock company, trust, unincorporated organization or government or political subdivision thereof.

1.94 "**Phase Gate IV**" means the date of completion of the design validation, clinical pivotal trial (if applicable), and process validation for the applicable Product, in accordance with DexCom's standard operating procedures [***].

1.95 "**PMA**" means a pre-market approval application submitted to the FDA for approval in accordance with 21 U.S.C. § 360(e) and 21 C.F.R. Part 814.

1.96 "**Pricing Assumptions**" means that (a) [***]; (b) [***]; (c) [***]; (d) [***], (e) [***], and (f) [***].

1.97 "**Pricing Expectations**" has the meaning set forth in Section 7.6.5(a).

1.98 "[***]" means a [***]. For clarity, [***].

1.99 "**Prior Agreements**" has the meaning set forth in Section 10.5.

1.100 "**Product**" means the First Product, Second Product, the Third Product (if agreed by DexCom pursuant to Section 3.1.1), and/or any Additional Product (if agreed by the Parties pursuant to Section 4.3).

1.101 "**Product Deadlines**" means the deadlines for the completion of Development, Regulatory Filing in the U.S. and EU and Launch in the U.S. and EU for the [***]. The Product Deadlines for such Development, Regulatory Filing(s) [***] are also referred to as "**Product Development Deadlines**." The Product Deadlines for such Launch in the U.S. and EU are also referred to as "**Product Launch Deadlines**."

1.102 "**Product Development Obligations**" means the development, clinical and regulatory obligations of [***].

1.103 "**Proposed Additional Product Supplement**" has the meaning set forth in Section 4.3.

1.104 "**Proposed Third Product Supplement**" has the meaning set forth in Section 3.1.1.

1.105 "**Prosecution and Maintenance**" means, with respect to a Patent, the preparing, filing, prosecuting and maintenance of such Patent, as well as reexaminations, reissues, requests for Patent term extensions and the like with respect to such Patent, together with the conduct of interferences, the defense of post-grant reviews, *inter partes* reviews, oppositions and other similar proceedings with respect to the particular Patent; and "**Prosecute and Maintain**" shall have the correlative meaning.

1.106 "**Regulatory Approval**" means, with respect to a Product in a particular jurisdiction, any Marketing Approval and all clearances, approvals, licenses, registrations or authorizations necessary for the Development or Manufacture of such Product in such jurisdiction.

1.107 "**Regulatory Authority**" means any federal, national, multinational, state, provincial or local regulatory agency, department, bureau or other governmental entity, agency or other organization (e.g., notified bodies) with authority over the Development, Manufacture, Commercialization or other use or exploitation (including the granting of Marketing Approvals) of any Product in any jurisdiction, including the FDA.

1.108 "**Regulatory Filing**" means any filing, application or submission for Regulatory Approval, and any notification and other correspondence made to or with a Regulatory Authority in connection with a Regulatory Approval, in each case that are necessary or reasonably desirable in Development, Manufacture or Commercialization in a particular country, whether submitted before or after a Marketing Approval in the country, including a PMA, a 510(k), or any other pre-market notification of intent, including any Regulatory Approvals, in each case with respect to a Product.

1.109 "**Required Party**" has the meaning set forth in Section 10.4.

1.110 "**Second Product**" means the [***].

1.111 "[***]" means [***] in subject matter consisting of: (a) [***], (b) [***], (c) [***], (d) [***], (e) [***], or (f) any combination thereof.

1.112 "**Software**" means software source code, object code, and any associated technical documentation, including, if applicable, the associated graphical interface, images, design materials, and schema design.

1.113 "**Specifications**" means, with respect to a Product or component, written functional, performance, form and configuration specifications, cost objectives and technical designs, and proposed indications for use, of or for such Product or component that are consistent with the technological capabilities of such Product or component and are intended to support the market requirements for such Product, together with the acceptance criteria for such Product or component, [***].

1.114 "**Standalone Product Limitation**" has the meaning set forth in Section 7.1.2(b).

1.115 "**Statement of Work**" means a writing executed by the Parties that sets forth the services to be rendered by Verily and any terms and conditions related to such services.

1.116 "**Stock Purchase Agreement**" has the meaning set forth in Section 8.6.

1.117 "**Suppliers**" has the meaning set forth in Section 7.6.1(a).

1.118 "**Supply Agreements**" has the meaning set forth in Section 7.6.1(a).

1.119 "**Technical Lead**" has the meaning set forth in Section 2.1.4.

1.120 "**Term**" has the meaning set forth in Section 12.1.

1.121 "**Territory**" means [***].

1.122 "**Third Party**" means any Person other than DexCom, Verily or their respective Affiliates.

1.123 "**Third Party Claim**" has the meaning set forth in Section 11.4.1.

1.124 "**Third Product**" means the [***], if any, developed pursuant to Section 3.1.1, as such [***] may be updated or upgraded. For the avoidance of doubt, all references to Third Product in this Agreement, except for the restrictive covenant set forth in Section 3.1.1, shall apply if and only if DexCom elects to proceed with Third Product development as set forth in Section 3.1.1 and shall otherwise have no effect in this Agreement.

1.125 "**Third Product Negotiation Period**" has the meaning set forth in Section 3.1.1.

1.126 "**Third Product Supplement**" has the meaning set forth in Section 3.1.1.

1.127 "**Total Product Revenue**" means total net revenue attributable to the sale by DexCom and/or its Affiliates of the First Product, Second Product, Third Product, and/or any Alternative Product, as calculated in accordance with GAAP, consistent with DexCom's revenue disclosed in DexCom's financial statements filed with the SEC in its periodic (quarterly and annual) reports. If a Product (or Alternative Product) is Commercialized, directly or indirectly, in a manner that is combined or integrated with any product or service that is not a Product ("**Combination**

Product"), the portion of the total net revenue attributable to the Product (or Alternative Product) shall be calculated by [***].

1.128 "**Trademark**" means any trademark, trade name, service mark, service name, brand, domain name, trade dress, logo, slogan or other indicia of origin or ownership, including registrations and applications therefor and the goodwill and activities associated with each of the foregoing.

1.129 "**Upfront Payment Amount**" has the meaning set forth in Section 8.1.

1.130 "**Upfront Shares**" has the meaning set forth in Section 8.1.

1.131 "**Verily**" has the meaning set forth in the Preamble.

1.132 "**Verily Background IP**" means any and all IP (other than Collaboration IP) Controlled by Verily and/or its Affiliates as of the Effective Date and/or at any time during the Term.

1.133 "**Verily [***]**" has the meaning set forth in Section 4.3.

1.134 "**Verily Collaboration IP**" means Verily Software IP and Verily Retained Know-How.

1.135 "**Verily Delay**" has the meaning set forth in Section 3.1.2.

1.136 "**Verily Deliverable**" has the meaning set forth in Section 11.4.1.

1.137 "**Verily Development Services**" means [***] to support the [***].

1.138 "**Verily Indemnitees**" has the meaning set forth in Section 11.4.3.

1.139 "**Verily Infrastructure Services**" means [***].

1.140 "**Verily IP**" means, collectively, (i) Verily Collaboration IP, (ii) Verily Licensed Patents, and (iii) Verily Know-How.

1.141 "**Verily Know-How**" means any and all Know-How (a) incorporated by Verily into the First Product, Second Product, Third Product and/or any Additional Product or (b) otherwise used by Verily for its performance of [***].

1.142 "**Verily Licensed Patents**" means (a) (i) the [***], (ii) any Patents that are entitled to claim priority to the foregoing Patents, and (iii) any Patents hereafter issuing on any of the Patents described in clause (i) or (ii) above, (b) [***], and/or (c) any other Patents that are Controlled by Verily (and/or its Affiliates) as of the Effective Date and/or at any time between the Effective Date and the end of the Term (excluding any Patents that are Verily Software IP), which Patents under (c) claim or cover the First Product, Second Product, Third Product and/or any Additional Product.

1.143 "[***]" means the Patents listed in Exhibit 1.143.

1.144 "[***]" means the Patents listed in Exhibit 1.144.

1.145 "**Verily Milestone Shares**" has the meaning set forth in Section 8.2.1.

1.146 "**Verily Platform**" means the [***] platform developed by or on behalf of [***], which platform (a) [***] and (b) [***].

1.147 "**Verily Programs**" means Verily's programs for [***].

1.148 "**Verily Program Notice**" has the meaning set forth in Section 4.2.

1.149 "**Verily Program [***]**" has the meaning set forth in Section 4.2.

1.150 "**Verily Retained Know-How**" has the meaning set forth in Section 9.1.4.

1.151 "**Verily Services**" means, collectively, the [***].

1.152 "**Verily Software IP**" means [***].

1.153 "**Verily Trademarks**" means the Trademarks set forth on Exhibit 1.153 or such replacements therefor as may be designated by Verily from time to time.

1.154 "**Verily Upfront Shares**" has the meaning set forth in Section 8.1.

1.155 "**VWAP**" means, with respect to a publicly traded stock and a specified end date, the volume weighted average trading price of such stock during a period of fifteen (15) consecutive trading days ending on the specified end date, calculated utilizing "VWAP" in the Bloomberg function VAP.

1.156 Interpretation. The captions and headings to this Agreement are for convenience only, and are to be of no force or effect in construing or interpreting any of the provisions of this Agreement. Unless specified to the contrary, references to Articles, Sections or Exhibits mean the particular Articles, Sections or Exhibits to this Agreement and references to this Agreement include all Exhibits hereto. Unless context otherwise clearly requires, whenever used in this Agreement: (a) the words "include" or "including" shall be construed as incorporating, also, "but not limited to" or "without limitation;" (b) the word "day" or "year" means a calendar day or year unless otherwise specified; (c) the word "notice" means notice in writing (whether or not specifically stated) and shall include notices, consents, approvals and other communications contemplated under this Agreement; (d) the words "hereof," "herein," "hereby" and derivative or similar words refer to this Agreement (including any Exhibits); (e) the word "or" shall be construed as the inclusive meaning identified with the phrase "and/or;" (f) provisions that require that a Party, the Parties or the Executive Sponsors "agree," "consent" or "approve" or the like shall require that such agreement, consent or approval be specific and in writing, whether by written agreement, letter, approved minutes or otherwise; (g) words of any gender include the other gender; (h) words using the singular or plural number also include the plural or singular number, respectively; (i) references to any specific law, rule or regulation, or article, section or other division thereof, shall be deemed to include the then-current amendments thereto or any replacement law, rule or regulation thereof; and (j) neither Party nor its Affiliates shall be deemed to be acting "on behalf of" or "under authority of" the other Party hereunder. This Agreement has been prepared jointly and shall not be strictly construed against either Party. Ambiguities, if any, in this Agreement shall not be construed against any Party, irrespective of which Party may be deemed to have authored the ambiguous provision.

Article 2.
GOVERNANCE

2.1 Executive Sponsors. The Parties will each appoint an individual to act as executive sponsor for that Party (each, an "**Executive Sponsor**"). The Executive Sponsors shall provide

oversight with respect to the Development of the Products and the Parties' respective activities to be conducted under this Agreement. The initial Executive Sponsor for DexCom shall be [***] and for Verily shall be [***]. The name and contact information for any replacement Executive Sponsor(s) chosen by a Party in its sole discretion from time to time, shall be promptly provided to the other Party in writing.

2.1.1 Meetings. The Executive Sponsors will meet [***], and more or less frequently as the Parties mutually deem appropriate, on such dates, and at such places and times, as provided herein or as the Parties shall agree. Meetings of the Executive Sponsors may occur [***]; provided, that at least [***] of the Executive Sponsor meetings per calendar year shall be held in person. [***]. As appropriate, other employee representatives of the Parties may attend meetings of the Executive Sponsors as nonvoting observers, but no personnel of a Party's Affiliates or of a Third Party may attend unless otherwise mutually agreed to by the Parties. Each Party may also call for special meetings to resolve particular matters requested by such Party.

2.1.2 Decision Making. Decisions of the Executive Sponsors shall be made [***]. Each Party shall work in good faith to [***] and act in the general spirit of cooperation (taking into consideration the scope of the Executive Sponsors' authority and the principles set forth in Sections 2.2.1 and 2.2.2) and in no event shall either Party unreasonably withhold, condition or delay any approval or other decision of the Executive Sponsors. Except as set forth in Section 3.3, in the event that the Executive Sponsors fail [***] with respect to a particular matter within its authority, then either Party may, by notice to the other Party, have such matter referred to [***] for resolution by good faith discussions for a period of at least fifteen (15) Business Days. In the event that [***] are unable to reach agreement with respect to such matter within such fifteen (15) Business Days, then the dispute shall be resolved pursuant to Article 13, provided that each Party shall retain final decision-making authority with respect to [***] (so long as in compliance with this Agreement).

2.1.3 Alliance Managers. Each Party shall appoint an Alliance Manager, who will serve as a primary point of contact between the Parties, and who shall be responsible for communicating the status of activities under this Agreement to its Executive Sponsor and to the other Party's Alliance Manager. The initial Alliance Manager for DexCom shall be [***] and for Verily shall be [***]. The Alliance Managers shall be the primary point of contact for the Parties with respect to the activities to be conducted under this Agreement. The name and contact

information for the Alliance Managers, as well as any replacement(s) chosen by either Party in their sole discretion from time to time, shall be promptly provided to the other Party in writing.

2.1.4 Technical Leads. The Parties will each appoint an individual to act as a technical lead for that Party (each, a "**Technical Lead**"). The initial Technical Lead for DexCom shall be [***], and for Verily shall be [***] and [***]. The name and contact information for the Technical Leads, as well as any replacement(s) chosen by either Party in their sole discretion from time to time, shall be promptly provided to the other Party in writing. The Technical Leads shall be responsible for (i) communicating on day-to-day implementation [***] with the other Technical Lead, and (ii) proposing updates or amendments [***] to the Executive Sponsors in accordance with Section 3.3.

2.2 Authority.

2.2.1 General. Notwithstanding the appointment of the Executive Sponsors, each Party shall retain the rights, powers and discretion granted to it hereunder, and the Executive Sponsors shall not be delegated or vested with rights, powers or discretion unless such delegation or vesting is expressly provided herein, or the Parties expressly so agree in writing. The Executive Sponsors shall not have the power to (i) amend, modify or waive compliance with this Agreement, (ii) to determine whether or not a Party has met its diligence or other obligations under the Agreement, or (iii) to determine whether or not a breach of this Agreement has occurred, and no decision of the Executive Sponsors shall be in contravention of any terms and conditions of this Agreement.

2.2.2 Guiding Principles. The Executive Sponsors shall perform their responsibilities under this Agreement based on the principles of prompt and diligent Development and Commercialization of Future Products in [***] throughout the Territory, consistent with Commercially Reasonable Efforts.

2.3 Day-to-Day Responsibilities.

2.3.1 Each Party shall: (a) be responsible for its day-to-day activities hereunder, provided that such activities are consistent with the express terms of this Agreement or the decisions of the Executive Sponsors within the scope of their authority specified herein; and (b) keep the other Party informed as to the progress of such activities as reasonably requested by the other Party

and as otherwise determined by the Executive Sponsors. Without limiting the foregoing, (i) the Executive Sponsor of each Party shall promptly notify the Executive Sponsor of the other Party after becoming aware of circumstances that are reasonably likely to result in a delay in achieving a Product Deadline, achieving Phase Gate IV, or providing a Verily Service (as the case may be); [***].

2.3.2 The Parties' Technical Leads shall discuss use of Third Party Software or Software developed [***] ("**Outside Software**") as proposed to be incorporated into or relied on by any Assigned Software, in advance of delivery of such Assigned Software. If such use of Outside Software adversely impacts DexCom's IP rights in such Assigned Software or the licensing terms for such Outside Software would impose restrictions or obligations on DexCom as a result of such use, then Verily will not use such Outside Software in or with the Assigned Software without first obtaining approval from DexCom, such approval not to be unreasonably withheld. For clarity, DexCom's approval of a whitelisted open source license constitutes an approval of the use of any Outside Software under such whitelisted open source license for purposes of the foregoing.

Article 3.
DEVELOPMENT; DILIGENCE

3.1 General. Subject to oversight and review of the Executive Sponsors, Verily and DexCom shall conduct a program to Develop the Second Product and, at DexCom's option in accordance with Section 3.1.1, the Third Product, in each case, on a collaborative basis and in accordance with the [***] (the "[***]"). Each Party shall use [***]. In addition, Verily shall, at its own cost, use [***], until Verily's Development Completion of such Verily Services or the end date specified for such Verily Services [***], whichever is earlier. In accordance with Section 8.11, each Party will bear its own costs in performing its obligations [***] except as otherwise expressly provided herein or otherwise agreed by the Parties. Notwithstanding anything to the contrary in this Agreement, as of the Effective Date, neither Party shall have any Development, Commercialization, support, manufacturing, or other performance obligations with respect to the First Product or otherwise [***].

3.1.1 Third Product. Commencing on the Effective Date, DexCom shall cooperate with Verily in good faith, and shall make its personnel available for discussion with Verily upon Verily's reasonable request, for purposes of evaluating and drafting Third Product requirements. [***]. The Parties shall [***]. Product deadlines in the Third Product Supplement shall be deemed Product Deadlines under this Agreement. Notwithstanding the foregoing, the Parties acknowledge and agree that (i) [***], (ii) [***]. In the event the Parties [***].

3.2 [***]. The Development of the Future Products shall be carried out in accordance [***], which may be updated or amended as set forth in Section 3.3.

3.2.1 Content [***]. The [***] will set forth the Development activities to be undertaken by each Party with respect to the Future Products, including: (1) up to date Specifications for the Second Product and, if applicable, Third Product or any Additional Product, (2) each Party's Product Development Obligations, (3) the Verily Services, (4) the acceptance criteria for the deliverables contemplated in the [***] and the Verily Services, and (5) the party responsible for performing each obligation and the deadline for such performance, consistent with the Product Development Deadlines. [***] will include the [***]. [***] will at all times contain terms that reflect the use of Commercially Reasonable Efforts to Develop the Second Product and, if applicable, Third Product or any Additional Product, provide the Verily Services and obtain Marketing Approval for the Second Product and, if applicable, Third Product or any Additional Product, in a timely manner; provided that no action shall be required to be taken with respect to the Third Product or any Additional Product unless the Parties agree on a final Third Product Supplement in accordance with Section 3.1.1, or such Additional Product in accordance with Section 4.4, as applicable.

3.3 Updates or Amendments [***] shall be reviewed by the Executive Sponsors on a quarterly basis (or more frequently if appropriate). The Technical Leads shall be responsible for proposing updates and/or amendments [***] for approval. The Executive Sponsors shall propose that their respective Party approve [***], which will become effective and supersede [***] as of the date of such written approval signed by authorized signatories of the Parties. In the event of a disagreement regarding a proposed update or amendment [***] that (a) cannot be resolved by the Executive Sponsors, and (b) will result in a delay (or is reasonably likely to result in a delay) of [***] or more in any material aspect [***], the matter will be escalated to the Chief Executives. If

the Chief Executives are unable to reach an agreement to amend or update [***] within thirty (30) days, [***]

3.4 Verily Services. Verily will provide to DexCom the [***], in each case [***], in accordance with this Agreement [***]. As part of the Verily Services, Verily will provide to DexCom [***], provided however, that, except for [***], Verily shall not be obligated to provide such assistance with respect to [***] Competing Programs. For the avoidance of doubt, [***] Verily Services do not include services in connection with [***]; if the Parties wish to contract for such services, the Parties will do so, subject to mutual agreement, in a separate agreement or Statement of Work.

3.5 Verily Additional Services . Upon DexCom's request in each case, the Parties will discuss in good faith entering into one or more Statement(s) of Work for the provision by Verily of services (other than the Verily Services) [***]. Each such Statement of Work shall describe, among other things, Verily's responsibilities, deliverables, and timelines, rights and obligations with respect to the services, as well as commercially reasonable fees payable by DexCom. Neither Party shall have any obligation to enter into such Statement of Work, and the terms discussed by the Parties shall not be binding unless set forth in a writing signed by both Parties.

3.6 DexCom Cooperation. At Verily's request, DexCom will promptly provide Verily with access and any licenses to any DexCom Software as reasonably necessary (a) to provide the Verily Services, (b) to facilitate interoperation of the Products with the Verily Platform, and (c) to fulfill Verily obligations [***], provided that Verily agrees not to use, copy or distribute DexCom Software, or disclose DexCom Software or related DexCom IP to Third Parties except as approved by DexCom in writing.

3.7 Resource Commitments. In conducting the activities assigned to it under the [***], each Party agrees to use scientific, technical and other personnel who are sufficiently qualified and have the requisite skills to perform such activities.

3.8 Product Deadlines.

3.8.1 DexCom Diligence Obligations. Without limiting DexCom's obligations under this Agreement, DexCom shall use Commercially Reasonable Efforts to achieve the Product Deadlines and perform its obligations [***] and [***]; provided that if DexCom fails to achieve a Product Deadline within the timeframe specified due to any causes such as unforeseen technical delays, regulatory or clinical process or delays, or delays caused by Verily's failure to perform the Verily Services or Verily's failure to perform its obligations [***] or the Commercialization Plan, in each case to the extent beyond the reasonable control of DexCom, and despite DexCom's Commercially Reasonable Efforts to achieve such Product Deadline, then DexCom shall not be deemed in default or breach of this Section 3.8.1 on account of such failure to achieve the Product Deadline, and the timeframe for achieving such Product Deadline will be extended by the time of the delay reasonably attributable to the causes that were beyond the reasonable control of DexCom. Subject to this Section 3.8.1, if there is a delay in achieving a Product Deadline for which DexCom is responsible under this Section 3.8.1 and such delay exceeds [***] beyond the later of (a) the applicable Product Deadline and (b) the deadline mutually agreed upon by the Executive Sponsors in a modification to [***] as set forth in Section 3.3 (a "**DexCom Delay**"), DexCom will pay to Verily [***], which payment shall be made on a quarterly basis, within thirty (30) days of the end of the applicable calendar quarter. The Parties acknowledge and agree that the remedy set out in this Section 3.8.1 shall be Verily's sole and exclusive remedy for a DexCom Delay and is a reasonable estimate of the damages suffered by Verily in the event of DexCom's failure to meet a Product Deadline, and is not intended to be, nor will be construed as, a penalty.

3.8.2 Verily Diligence Obligations. Without limiting Verily's obligations under this Agreement, Verily shall use Commercially Reasonable Efforts to achieve the Product Deadlines and perform its obligations under the [***], including the Verily Services, and Commercialization Plan; provided that if Verily fails to achieve a Product Deadline within the timeframe specified due to any causes such as unforeseen technical delays, regulatory or clinical process or delays, or delays caused by DexCom's failure to perform its obligations under the [***] or the Commercialization Plan, in each case to the extent beyond the reasonable control of Verily, and despite Verily's Commercially Reasonable Efforts to achieve such Product Deadline, then Verily shall not be deemed in default or breach of this Section 3.8.2 on account of such failure to achieve the Product Deadline and the timeframe for achieving such Product Deadline will be extended by the time of the delay

reasonably attributable to the causes that were beyond the reasonable control of Verily. Subject to this Section 3.8.2, if there is a delay in achieving a Product Deadline for which Verily is responsible under this Section 3.8.2 and such delay exceeds [***] (a "**Verily Delay**"), Verily will pay to DexCom [***], which payment shall be made on a quarterly basis, within thirty (30) days of the end of the applicable calendar quarter. The Parties acknowledge and agree that the remedies set out in this Section 3.8.2 (in addition to the adjustments to the [***] in Section 1.9) are DexCom's sole and exclusive remedies for a Verily Delay, are a reasonable estimate of the damages suffered by DexCom in the event of Verily's failure to meet a Product Deadline, and are not intended to be, nor will be construed as, a penalty. In addition, with respect to the Second Product, in the event Verily fails to meet a Product Deadline by [***] or more but less than [***], the Parties agree that if a Milestone Payment for the First Marketing Approval becomes due, such Milestone Payment for the first Marketing Approval of the Second Product shall be reduced by one divided by three hundred sixty five ($1/365^{th}$) of the total of such Milestone Payment for each day after the [***] period following the expiration of such timeframe specified in the [***] for such Verily Service. In the event Verily fails to meet a Product Deadline by [***] or more, the Parties agree that DexCom shall not be obligated to (i) pay Verily any Milestone Payment for the first Marketing Approval of the Second Product, or (ii) Launch the Second Product.

3.8.3 Excused Delays. In order for a Party to be excused from its payment obligations under Section 3.8.1 or 3.8.2 (as applicable) for a delay in achieving a Product Deadline, such Party (after becoming aware of circumstances likely to result in a delay in the performance of its obligations) must notify the other Party's Executive Sponsor and (i) propose, timely implement, and adhere to a mitigation plan approved by the other Party in the exercise of its reasonable discretion or (ii) provide reasonable substantiating evidence that such delay was caused by the other Party or by a Force Majeure Event.

3.9 Acceptance Process.

3.9.1 Verily may, at any time, request DexCom's acceptance that it has achieved Development Completion with respect to any deliverable, Product, or Verily Service, or any component thereof that is subject to a Product Development Deadline (the "**Completed Deliverables**") by providing written or email notification to DexCom's Technical Lead of such request ("**Acceptance Submission Notice**"). Verily shall provide DexCom's Technical Lead with

access to review and evaluate the Completed Deliverables. The Technical Leads shall promptly review the Completed Deliverables and confer on whether the Completed Deliverables meet the applicable Specifications [***], and shall, no later than ten (10) calendar days after the date of the Acceptance Submission Notice, make a single (unanimous) or separate (split) recommendation(s) to the Executive Sponsors as to whether the Completed Deliverables should be accepted and be deemed to have achieved Development Completion.

3.9.2 If the Technical Leads unanimously agree to reject the Completed Deliverables, then the Presenting Party may rescind such Acceptance Submission Notice and resubmit such Completed Deliverable using the process set forth in Section 3.9.1.

3.9.3 If the Technical Leads make a single (unanimous) recommendation that a Party has achieved such Development Completion with respect to such Completed Deliverable, then, no later than twenty (20) calendar days after the date of the Acceptance Submission Notice, the Executive Sponsors shall review the recommendation(s) of the Technical Leads and determine whether to accept the Completed Deliverables as meeting the Specifications or reject the Completed Deliverables as not meeting the Specifications, which acceptance or rejection shall be made by a unanimous decision of the Executive Sponsors. If the Executive Sponsors unanimously agree to accept a Completed Deliverable, then Verily will be deemed to have achieved Development Completion with respect to such Completed Deliverable. If the Executive Sponsors unanimously agree to reject a Completed Deliverable, then the Completed Deliverable shall be referred back to the Technical Leads for review and remediation, and Verily may resubmit such Completed Deliverable using the process set forth in Section 3.9.1.

3.9.4 If the Technical Leads make a separate (split) recommendation regarding whether Verily has achieved Development Completion with respect to such Completed Deliverable, then, no later than twenty (20) calendar days after the date of the Acceptance Submission Notice, the Executive Sponsors shall review the recommendation(s) of the Technical Leads and attempt to resolve the differences in the recommendations. If the Executive Sponsors are unable to reach a unanimous decision in such time, then the matter shall be referred to the Chief Executives of DexCom and Verily for resolution by good faith discussions for a period of at least fifteen (15) Business Days. In the event that the Chief Executives are unable to reach agreement with respect to such matter within such fifteen (15) Business Days, then the dispute shall be resolved pursuant to Article

13, provided that each Party shall retain final decision-making authority with respect to the implementation of its own responsibilities under the [***] (so long as in compliance with this Agreement).

3.10 Reporting. Without limiting any other provisions of this Agreement, each Party shall keep the other reasonably informed through the Executive Sponsors as to the progress of its activities [***] or otherwise under this Article 3 and provide such reports and information with respect thereto as designated by the Executive Sponsors or as may be reasonably requested by the other Party. Also, each Party shall promptly notify the other Party if it anticipates, or there are, material deviations from the [***] and shall discuss in good faith, and keep such other Party reasonably informed, as to any corrective actions that it intends to take, or is taking, to address such deviations.

Article 4.
SUPPLY; ADDITIONAL PRODUCTS; PROGRAMS

4.1 Amended and Restated Supply Agreement. In order to enable DexCom to become the preferred provider of [***] to Onduo, the Existing Distribution Agreement will be amended and restated in its entirety by DexCom and Onduo concurrently with the execution of this Agreement.

4.2 Supply ROFN. The Parties acknowledge and agree that Verily, whether by itself or in collaboration with others, is, or may be, working to develop one or more Verily Programs. During the Term, if Verily, whether by itself or in collaboration with others, Develops a Verily Program [***], Verily shall provide notice to DexCom of such Verily Program (" **Verily Program Notice**"), and DexCom shall have a first right of negotiation, as set forth in this Section 4.2, to be the preferred supplier [***]. Such right of first negotiation shall be exercisable by DexCom by notice given to Verily within [***] of the date of the Verily Program Notice. In the event that DexCom exercises its right of first negotiation pursuant to this Section 4.2, the Parties shall promptly begin to negotiate in good faith on an exclusive basis with respect to the foregoing. If the Parties are unable to reach such agreement within [***] following DexCom's receipt of the Verily Program Notice, Verily shall not be prevented by this Section 4.2 or Section 7.5 from purchasing the applicable [***] from a Third Party, provided that in no event shall Verily, for [***] from the earlier of DexCom's decision to pass on the preferred supplier opportunity and the expiration of such [***], enter into any

agreement with such Third Party on terms that are more favorable to the Third Party than those last offered to DexCom.

4.3 Additional Products ROFN. During the Term, if Verily desires to Develop any [***] other than the First Product, Second Product, and Third Product), then, before commencing [***], Verily shall notify DexCom in writing and shall include with such notice [***] which shall set forth the Parties' respective roles and responsibilities with respect to the Development of such [***] ("**Proposed Additional Product Supplement**"). Thereafter, the Parties shall have [***] following the receipt of the Proposed Additional Product Supplement to negotiate, in good faith, a final Additional Product Supplement for the development of such [***] (the "**Final Additional Product Supplement**") and, upon the Parties' mutual written agreement on the Final Additional Product Supplement, the [***] subject to the Final Additional Product Supplement shall become an Additional Product [***]. Notwithstanding the foregoing, the Parties acknowledge and agree that (i) neither Party shall be obligated to assume any of the costs and expenses of the Development and Commercialization of any Additional Product, and (ii) the Development and Commercialization of the Second Product and, if applicable, Third Product, shall be the initial priority of the Collaboration, and the Development and Commercialization of any Additional Product shall not materially impact the Product Deadlines for the Second Product and, if applicable, Third Product, unless revised Product Deadlines for such Products are mutually agreed upon by the Parties. If the Parties are unable to reach written agreement on the Final Additional Product Supplement within [***] following DexCom's receipt of the Proposed Additional Product Supplement, Verily shall not be prevented by this Section 4.3 or Section 7.5 from independently developing the [***] that was the subject of the Final Additional Product Supplement ("[***]"), *provided, however,* that (a) as between the Products and [***], the Development and Commercialization of the Products shall continue to be Verily's priority, and the development and commercialization, if any, of the [***] shall in no event impact the Product Deadlines for the Products, and (b) in no event shall Verily be granted or otherwise have any right to exploit any IP owned or Controlled by DexCom or its Affiliates or exclusively licensed to DexCom hereunder (other than the Verily Licensed Patents), or use any of DexCom's Confidential Information, whether to develop, manufacture and/or commercialize the [***] or otherwise.

4.4 Preferred Provider [***]. Verily will use [***] to facilitate discussions with Alphabet to enable DexCom to become the preferred provider of [***].

Article 5.
COMMERCIALIZATION

5.1 General. Subject to the terms and conditions of this Agreement and the oversight of the Executive Sponsors, as between the Parties, DexCom shall have the exclusive right to Commercialize the Products in [***] in the Territory. DexCom shall, [***] be responsible for all Commercialization efforts for the Products in the Exclusive CGM Field in the Territory, including the [***] to support such Commercialization, in accordance with the Commercialization Plan. Verily shall, [***] use Commercially Reasonable Efforts to assist with DexCom's [***]; provided that Verily shall have the right to approve or reject in writing any such assistance that exceeds a *de minimis* effort or contribution.

5.2 Commercialization Plans. The Commercialization of each Future Product will be carried out in accordance with a Commercialization Plan. Each such Commercialization Plan will set forth: (1) the timing for Launch of the applicable Products consistent with the Product Launch Deadlines, (2) the obligations required for the Commercialization of the applicable Products, and (3) the Party responsible for performing each obligation.

5.2.1 Second Product. DexCom shall propose and submit to the Executive Sponsors an initial Commercialization Plan for the Second Product at least nine (9) months prior to the Product Deadline for Launch of such Product in the United States.

5.2.2 Third Product and Additional Products. At least nine (9) months in advance of the Launch of the Third Product and each Additional Product, DexCom shall propose and submit to the Executive Sponsors an initial Commercialization Plan for such Product in the Territory.

5.2.3 Updates. Until such time as DexCom has paid to Verily all of the Milestone Payments set forth in Section 8.2.1, each Commercialization Plan will be updated at least annually. DexCom shall provide each Commercialization Plan and any material modification or addition thereto to the Executive Sponsors for its review and comment. The Parties acknowledge that the comments of the Executive Sponsors with respect to any Commercialization Plan and any material modification or addition thereto are [***] with respect thereto. For the avoidance of doubt, the Commercialization Plan and any updates thereto shall not amend or modify the terms of this Agreement.

5.3 Diligence Obligations. DexCom shall use Commercially Reasonable Efforts to: (a) Launch each Product by the applicable Product Launch Deadlines and (b) Commercialize Products so as to achieve each of the Milestone Events set forth in Section 8.2.1.

5.4 Trademarks.

5.4.1 Ownership of Marks. DexCom will be responsible for the selection, registration, maintenance and defense of, and will solely own all right, title and interest in, all Trademarks (except the Verily Trademarks) for use in connection with the Commercialization of the Products, as well as all expenses associated therewith.

5.4.2 Branding of Products. DexCom will have the right to implement a branding strategy for the Products, as outlined in the Commercialization Plan; provided, however, that if requested by Verily, and to the extent allowed by the applicable Regulatory Authority, DexCom will include on all labels, packaging, inserts and promotional materials for each Product a designation that each Product incorporates Verily technology, provided that such designation may be subordinate to any Trademark selected by DexCom for a Product and any Trademark used by DexCom; provided that size and placement of the designation shall be consistent with DexCom's practices with respect to other Third Party Trademarks. Such designation will include at least one of the Verily Trademarks as agreed by the Parties.

5.4.3 Use of Verily Trademarks . In advance of each separate use of a Verily Trademark for a Product, DexCom shall notify Verily in writing and obtain Verily' prior written approval on the final selection, placement, look and feel of the Verily Trademark. DexCom recognizes the reputation of Verily as a provider of high quality products and services and agrees to continue to maintain, and to require its sublicensees to continue to maintain, the same high standard of quality for the Commercialization of the Products. DexCom will not, without Verily's prior written consent, use any other Trademarks of Verily, or Trademarks confusingly similar thereto, in connection with its marketing or promotion of the Products. DexCom acknowledges that it obtains no ownership interest in, or to, the Verily Trademarks under this Agreement. DexCom will at any time, whether during or after the Term, execute any documents that are reasonably required by Verily to confirm Verily's ownership of the Verily Trademarks. DexCom agrees that it will do nothing inconsistent with Verily's ownership of the Verily Trademarks.

5.5 Reporting. Without limiting any other provisions of this Agreement, until such time as DexCom has paid to Verily all of the Milestone Payments set forth in Section 8.2.1, DexCom shall keep Verily reasonably informed through the Executive Sponsors as to the progress of its activities with respect to the Commercialization of Products or otherwise under this Article 5 and provide Product sales forecasts, Total Product Revenue estimates, and such other reports and information with respect to Commercialization of Products as designated by the Executive Sponsors or as may be reasonably requested by Verily, except as prohibited by Law.

Article 6.
REGULATORY MATTERS

6.1 General. As between the Parties, [***] shall, [***], be the manufacturer of record with respect thereto and take the lead and be responsible for (in each case with respect to Products): (a) conducting any clinical trials or clinical studies required for any Regulatory Filings and/or Regulatory Approvals; (b) filing, obtaining and maintaining Regulatory Filings and Regulatory Approvals for Development, Manufacture and Commercialization of the Products in the Territory; (c) communicating with Regulatory Authorities; (d) preparing and submitting supplements, communications, annual reports, Adverse Event reports, manufacturing changes, supplier designations and all other Regulatory Filings; and (e) all costs and expenses associated with the foregoing, except to the extent otherwise provided herein, and provided that [***] shall, at its own cost, provide to [***] any documentation or other assistance reasonably required to support the foregoing activities [***]. [***] will keep [***] or its designee reasonably informed regarding the status and progress of such activity, including (i) providing [***] or its designee with advance notice of all meetings scheduled with a Regulatory Authority involving a Regulatory Filing; and (ii) providing [***] a copy of each Regulatory Approval for each Product.

6.2 Safety Reporting. With respect to any Adverse Event, any safety monitoring and any obligation to report to any Regulatory Authority relating to any safety issue with respect to Products or any component thereof, [***] shall be responsible for, and shall establish (subject to the oversight and comment of the Executive Sponsors as described below) operating procedures to report to the appropriate Regulatory Authority(ies), all such matters in accordance with applicable Law. Such activities and operating procedures by [***] shall include any measures necessary for [***] to fully comply with such Laws and, if necessary, allow [***] to comply with its requirements for Adverse

Event reporting under applicable Laws. Such activities and operating procedures, and any material revisions to them, shall be provided to the Executive Sponsors for review and comment. To the extent requested by [***], [***] shall provide [***] any information or regular updates on Adverse Events, safety monitoring and/or any interaction with Regulatory Authorities relating to safety issues with respect to the Products or any component thereof.

6.3 Quality Agreement. The Parties will enter into a mutually agreed-upon Quality Agreement in connection with the Commercialization Plan.

Article 7.
LICENSES AND EXCLUSIVITY

7.1 Licenses to DexCom.

7.1.1 License to Verily Collaboration IP.

(a) As of the Original Effective Date, Verily hereby grants to DexCom, [***] under any Verily Collaboration IP and Verily's interest in any Joint Collaboration IP (in each case other than Verily Software IP) to (either by itself or in collaboration with a Third Party) Develop, Manufacture and Commercialize [***]. The Parties acknowledge and agree that the [***] nature of the license granted under this Section 7.1.1(a) shall not be construed to limit Verily's or its Affiliates' ability to develop, manufacture or commercialize Software that [***].

(b) As of the Original Effective Date, Verily hereby grants to DexCom, a [***] license under any Verily Software IP to (either by itself or in collaboration with a Third Party) Develop, Manufacture and Commercialize [***]; provided that DexCom may not use any Software covered by Verily Software IP, which Software was delivered to DexCom by Verily [***] (or which constitutes a derivative work of the foregoing Software), to co-develop, co-brand or white-label with a Third Party a Competing Program.

(c) Verily hereby grants to DexCom, a [***] license under any Verily Software IP covering or claiming the Assigned Software to use, reproduce, modify, distribute, publicly display and publicly perform and otherwise exploit such Assigned Software for any purpose.

7.1.2 Licenses to Verily Background IP and for [***].

(a) As of the Original Effective Date, Verily hereby grants to DexCom, a [***] license, under any Verily Background IP (other than the Verily Licensed Patents) [***]. For the avoidance of doubt, any Verily Background IP that covers, claims, is used in, or is used to make a [***] shall be deemed to be "necessary" for purposes of the foregoing license.

(b) As of the Original Effective Date, Verily hereby grants to DexCom, a [***] license, under any Verily Licensed Patents and other Verily Background IP and Verily Collaboration IP (including Verily Software IP) as necessary to Develop, Manufacture, or Commercialize [***] for purposes of Developing, Manufacturing and Commercializing [***], to the extent that such [***] is commercialized (or, if not yet commercialized, designed) as part of a standalone [***], regardless of whether (i) reimbursement is for the standalone [***] or for a bundle of products or services offered by a Third Party that includes the [***], or (ii) DexCom re-sells [***] (the "**Standalone Product Limitation**"). For the avoidance of doubt, any Verily Background IP that covers, claims, is used in, or is used to make [***] that is commercialized by DexCom as part of a standalone [***] shall be deemed to be "necessary" for purposes of the foregoing license. A "[***]" means a medical device, [***].

(c) As of the Original Effective Date, Verily hereby grants to DexCom, a [***] license, under any Verily Licensed Patents and other Verily Background IP covering or claiming the Assigned Software, in each case to use, reproduce, modify, distribute, publicly display and publicly perform and otherwise exploit the Assigned Software for any purpose.

7.1.3 Sublicensing. The licenses contained in Sections 7.1.1(b) and (c) and 7.1.2(a), (b) and (c) shall be sublicensable (through multiple tiers) in connection with the Development, Manufacturing and/or Commercialization of any [***] (subject to the Standalone Product Limitation), and Assigned Software, as applicable, provided that (i) material DexCom Background IP and/or [***] is included in such sublicense, and (ii) DexCom retains a material involvement in the Development, Manufacturing and/or Commercialization of such [***], as applicable, which sublicense shall not be effective until DexCom delivers to Verily an executed copy of any such sublicense agreement, provided that DexCom may reasonably redact from any such sublicense agreement any confidential information of DexCom or the applicable sublicensee,

and further provided that upon such delivery to Verily, the sublicense will be deemed effective as of the date specified in the applicable sublicense agreement. Delivery to Verily of a standard sublicense template used by DexCom with multiple customers, resellers, or distributors in the ordinary course of its business will be sufficient for purposes of the delivery condition set forth in the preceding sentence. Without limiting the foregoing, the Parties will use good faith efforts to implement shared procedures to limit the administrative burdens associated with complying with the foregoing delivery obligation.

7.1.4 License to Verily Licensed Patents. As of the Original Effective Date, Verily hereby grants to DexCom, an [***] license under the Verily Licensed Patents to (either by itself or in collaboration with a Third Party) Develop, Manufacture and Commercialize [***]. The Parties acknowledge and agree that the [***] nature of the license granted under this Section 7.1.4 shall not be construed to limit Verily's or its Affiliates' ability to develop, manufacture or commercialize Software [***].

7.1.5 Covenant Not to Sue for DexCom [***]. For a period of [***] from the Effective Date, Verily on behalf of itself and its Affiliates, covenants that Verily and its Affiliates will not initiate or continue any judicial or administrative proceeding (e.g., before the U.S. International Trade Commission) anywhere in the world against DexCom, its Affiliates, or any of its or their customers or direct distributors, based upon any claim that the manufacture, use, sale, license, distribution, offer for sale, offer for license, import, export, or other exploitation of a DexCom [***]constitutes infringement or misappropriation (including direct, contributory or inducement of infringement) of any [***] Controlled by Verily as necessary to manufacture, use, distribute, sell, license, offer for sale, offer for license, import, export, or otherwise exploit such DexCom [***]. For the avoidance of doubt, any such Patent rights or Verily Know-How that covers, claims, or is used in or to make a DexCom [***] shall be deemed to be "necessary" for purposes of the foregoing covenant. "**DexCom [***]**" means [***] Commercialized by DexCom or (subject to Section 7.1.7) any of its Affiliates [***]. This covenant is personal to DexCom, not transferable or assignable to a Third Party. If DexCom or its Affiliates, customers, or direct distributors commences or participates in a legal proceeding in the same or similar technical subject matter covered under this covenant not to sue against Verily, its Affiliates, or Onduo LLC or its Affiliates, then Verily may, at its sole discretion, suspend or

terminate the covenant not to sue provided under this Agreement upon providing written notice to DexCom.

7.1.6 License to Verily Trademarks. Subject to Section 5.4.3, Verily hereby grants to DexCom a [***] license to use the Verily Trademarks solely as provided for under Section 5.4 in connection with the Commercialization of Products. The ownership and all goodwill accruing to the Verily Trademarks arising directly from use of the Verily Trademarks will vest in and inure to the benefit of Verily.

7.1.7 DexCom Affiliates. DexCom shall have the right to exercise the licenses granted under Sections 7.1.1, 7.1.2, and 7.1.4 through its Affiliates as of the Effective Date, solely for as long as such entity remains an Affiliate of DexCom, and DexCom shall remain responsible for the compliance of such Affiliate with all terms of this Agreement. Furthermore, DexCom shall have the right to exercise the licenses granted under Sections 7.1.1, 7.1.2 and 7.1.4 through its future Affiliates in connection with restructuring or tax matters, subject to Verily's prior written consent, not to be unreasonably withheld, conditioned or delayed. For clarity, DexCom's ability to grant sublicenses to future Affiliates under the licenses granted under Sections 7.1.1, 7.1.2 and 7.1.4 shall be subject to the terms set forth therein and in Section 7.1.3 with respect to Third Parties, excluding the condition set forth therein regarding delivery of an executed copy of the sublicense agreement to Verily. Notwithstanding anything to the contrary in this Agreement, the non-transferable licenses in Section 7.1.2 and Section 7.1.4 may not be transferred to a Third Party or Affiliate in connection with a permitted assignment of this Agreement under Section 14.2 (unless such transfer is otherwise expressly authorized under the preceding provisions of this Section 7.1.7).

7.2 Licenses to Verily.

7.2.1 License to Perform Obligations. Subject to the terms and conditions of this Agreement, DexCom hereby grants to Verily a [***] license under any DexCom IP, during the Term, solely to perform Verily's service and development and commercialization obligations to DexCom under the [***], Commercialization Plan, and/or otherwise under this Agreement.

7.2.2 License to [***]. DexCom hereby grants to Verily a [***] license under (i) any [***] jointly developed by the Parties or solely developed by Verily, solely for use outside of

the [***] and (ii) any [***] solely developed by DexCom in subject matter consisting of [***], in each case under (i) and (ii) solely for use [***].

7.3 No Other Rights. Each Party acknowledges that the rights and licenses granted under this Article 7 and elsewhere in this Agreement are limited to the scope expressly granted. Accordingly, except for the rights expressly granted under this Agreement, no right, title, or interest of any nature whatsoever is granted whether by implication, estoppel, reliance, or otherwise, by either Party to the other Party. All rights with respect to Know-How, Patent, Trademarks or other IP rights that are not specifically granted herein are reserved to the owner thereof.

7.4 Other Licenses. No license to Collaboration IP owned by Verily shall be granted by Verily or its Affiliates to [***] of the foregoing unless Verily (a) [***], and (b) [***]. Notwithstanding the foregoing, any license granted by [***], or any subsidiary of the foregoing under the Collaboration IP shall be subject to the exclusive and non-exclusive rights granted by Verily to DexCom pursuant to this Agreement and the foregoing shall not be construed to allow or authorize any grant of a license under the Collaboration IP that is in conflict with any such exclusive or non-exclusive license granted to DexCom.

7.5 [***]. During the Term, Verily and DexCom will collaborate on [***] on the Development of the Products, and DexCom will have the [***], in each case subject to Section 4.3 of this Agreement, and in accordance with the terms and conditions of this Agreement. Subject to Section 4.3 of this Agreement, Verily and its Affiliates shall not, during the Term, Develop, Manufacture or Commercialize [***], except as necessary to fulfill its obligations under this Agreement or to allow any [***]. Subject to Section 4.3, during the Term, Verily and its Affiliates shall not [***] except (i) solely to the extent necessary to [***], and/or (ii) in an open source license accompanying distributable source code (for each case (i) and (ii), solely with respect to communication software and/or other similar software) hosted by or on behalf of Verily. For clarity, [***] granted under this Section 7.5 shall not be construed [***], provided that in no event shall [***].

7.6 [***] Supply.

7.6.1 Support for [***] Supply.

(a) Verily will use Commercially Reasonable Efforts to enter into an agreement with [***] (the "**Suppliers**") (the two principal suppliers for [***]) on terms that would (a) allow DexCom, or a vendor identified by DexCom and reasonably acceptable to Verily, to have [***] and (b) specify [***]. For clarity, [***].

(b) To facilitate manufacturing of [***], Verily will provide to DexCom [***].

7.6.2 [***] Application Engineer Support Services. During development of the [***], Verily will use Commercially Reasonable Efforts to provide reasonable and customary application engineer support services relating to use of [***] in a Future Product. This support will include providing updates to [***] as necessary and in response inquiries from the DexCom technical team. This support obligation does not include design changes, new features, or integrations [***].

7.6.3 Support for [***].

(a) If DexCom reasonably believes that a Future Product unit has failed or has been returned due to a defect in [***], then, upon DexCom's reasonable request and delivery of the defective [***] to Verily, Verily will use Commercially Reasonable Efforts to [***].

(b) Verily's Technical Lead will notify DexCom's Technical Lead of the determination of any design or manufacturing defect in [***] pursuant to the foregoing section (which notice may be provided by email). DexCom's technical lead shall notify Verily if DexCom wishes for Verily to present a Defect Notification Plan (the date of such notice, the "Defect Notification Date").

(c) If such failure is determined to be due to a design defect, and DexCom demonstrates with reasonably detailed, objective evidence that such design defect is caused primarily by [***], then, notwithstanding DexCom's prior acceptance of such Deliverable pursuant to Section 3.9 of the Agreement, [***]. All other services, and any services [***], and any related capital expenditures, will be subject to a separate Statement of Work negotiated between the Parties.

(d) If, (a) by [***] Business Days after the Defect Notification Date, Verily does not deliver to DexCom a plan for addressing a design defect, or (b) by [***] days after the Defect Notification Date, the Parties are unable to reach terms on which Verily will provide design modifications to address a design defect in [***], then such matter shall be referred to the Executive Sponsors for resolution. If the Executive Sponsors are unable to reach resolution on commercially reasonable terms within [***] Business Days of such referral, then Verily will, at DexCom's request, provide the [***] to DexCom for purposes of addressing design defects in [***]; provided, however, that the foregoing obligation shall not apply if Verily offers commercially reasonable terms in good faith and DexCom does not accept such terms.

(e) On and after the third anniversary of Launch, Verily may, in lieu of providing any support for design defects in [***] for a Future Product, provide to DexCom (i) the [***].

7.6.4 Services After Completion of Verily's Deliverables. After completion of Verily's Deliverables, any additional design or test changes requested by DexCom will be negotiated under a Statement of Work on terms to be mutually agreed upon by the Parties.

7.6.5 [***] Pricing.

(a) Verily anticipates that if the Pricing Assumptions set forth below are satisfied, then the [***] for the Second Product will be available under the Supply Agreements at the following purchase prices (which prices reflect the cost per unit excluding taxes, duties, shipping, and other fees) (the "**Pricing Expectations**"):

(i) For volume commitments greater than [***] units per year, the purchase price under the Supply Agreements is expected to be [***] per unit;

(ii) For volume commitments greater than [***] units per year and less than [***] units per year, the purchase price under the Supply Agreements is expected to be [***] per unit;

(iii) No pricing commitment is provided for volume commitments below [***] units per year.

(b) If, notwithstanding satisfaction of the Pricing Assumptions, the actual [***] cost upon completion of Phase Gate IV is higher than the Pricing Expectations (based on [***] through the Phase Gate IV completion date and a complete set of quoted supplier costs for a volume of [***]), then Verily shall pay to DexCom a fee of [***], such fee not to exceed [***] in total.

(c) If the actual [***] cost upon completion of Phase Gate IV is lower than the Pricing Expectations (based on [***] through the Phase Gate IV completion date and a complete set of quoted supplier costs for a volume of [***] units purchased per year), then DexCom shall pay to Verily a fee of [***], such fee not to exceed [***] in total.

(d) The fees set forth in this Section 7.6.5 are the Parties sole and exclusive remedies for any deviations from the Pricing Expectations.

Article 8.
PAYMENTS

8.1 Second Upfront Fee. The Parties acknowledge and agree that DexCom has paid to Verily the upfront fee set forth in Section 8.1 of the Original Agreement. Within ten (10) Business Days following the Antitrust Clearance Date, in consideration of (a) Verily's performance of its obligations under the Development Plan, (b) the licenses granted to DexCom under Section 7.1, and (c) the Parties' agreement to amend and restate the Original Agreement, DexCom shall pay a second upfront payment of $250 million (the "**Upfront Payment Amount**"), or, at DexCom's election, an equivalent number of shares of DexCom Common Stock as determined by dividing the Upfront Payment Amount by the Initial VWAP (the "**Upfront Shares**"). The Upfront Payment

Amount shall be paid as follows, at the direction of Verily: (1) $15 million (or six percent (6%) of Upfront Shares, which shall be "**Verily Upfront Shares**"), to Verily and (2) $235 million (or ninety four percent (94%) of Upfront Shares) to Onduo and shall be issued pursuant to the Stock Purchase Agreement (as defined below). The Upfront Payment Amount (or the Upfront Shares in lieu of the Upfront Payment Amount, if applicable) shall be non-refundable and shall not be creditable. The Parties acknowledge and agree that the $15 million paid to Verily or Verily Upfront Shares issued directly to Verily under this Section 8.1 are attributable to a buyout of the First Product milestone described in Section 8.2.1 of the Original Agreement.

8.2 Milestone Payments.

8.2.1 Milestones. Subject to DexCom's right to pay in cash pursuant to and subject to the calculation methodology set forth in Section 8.2.2, DexCom shall pay the DexCom Common Stock as set forth in the following table (each such payment, a "**Milestone Payment**") upon the first achievement of the corresponding milestone event for the applicable Product (each such event, a "**Milestone Event**"), it being understood that, at Verily's direction, part of such Milestone Payment shall be paid to Onduo, as set forth below:

Milestone Event	Milestone Payment
The earlier of (i) [***] or (ii) [***]	DexCom Common Stock equal to $100 million divided by the Initial VWAP (half issued to Verily (the "**Verily Milestone Shares**") half issued to Onduo)
First time Total Product Revenue exceeds [***]	DexCom Common Stock equal to $125 million divided by the Initial VWAP, issued to Onduo
First time Total Product Revenue exceeds [***]	DexCom Common Stock equal to $50 million divided by the Initial VWAP, issued to Onduo

The Parties acknowledge and agree that the Verily Milestone Shares issued directly to Verily, or the equivalent amount in cash upon DexCom's election to pay in cash subject to the calculation methodology set forth in Section 8.2.2, under this Section 8.2.1 are attributable to a milestone buyout of the Second Product milestone described in Section 8.2.1 of the Original Agreement.

8.2.2 For clarity, it is understood that each Milestone Payment shall be payable only once upon the first achievement of the applicable Milestone Event and, if paid in DexCom Common Stock, shall be issued pursuant to the Stock Purchase Agreement. At DexCom's option, DexCom may pay cash to Verily and Onduo in lieu of delivering any DexCom Common Stock required to be paid pursuant to Section 8.2.1, which cash payment amount shall be the applicable number of shares of DexCom Common Stock set forth in Section 8.2.1 multiplied by Milestone Date VWAP for such Milestone Event.

8.2.3 Incentive Payment. With respect to the Second Product, if Verily completes its Product Development Obligations, as determined by the Parties in accordance with Section 3.9 at least [***] prior to Verily's Product Development Deadline (the "**Incentive Milestone Event**"), then Verily shall be entitled to receive an incentive payment of [***]. The date on which Verily will be deemed to have completed its Product Development Obligations will be the date on which Verily last submitted for acceptance or approval (pursuant to Section 3.9) the Product Development Obligations that were ultimately approved or accepted pursuant to Section 3.9 without an intervening notice of rejection from DexCom.

8.2.4 Payment Terms. The Milestone Payments set forth in this Section 8.2 shall each be payable in, at DexCom's sole election, cash or in shares of DexCom Common Stock, and due to Verily or Onduo, as applicable, within thirty (30) days of the achievement of the corresponding Milestone Event or completion of the Product Development Obligations, as applicable, except to the extent set forth in the Stock Purchase Agreement (as defined below).

8.2.5 Notice. DexCom agrees to promptly notify Verily of its achievement of each Milestone Event.

8.3 No Royalties, Milestones or Other Amounts. Except for the amounts payable to Verily by DexCom under Sections 8.1 and 8.2 above, no other amounts shall be payable to Verily in connection with the First Product, Second Product, Third Product, any Additional Product, or the Verily Services. For clarity, the foregoing payments replace in their entirety any and all payment obligations of DexCom under the Original Agreement, including any and all royalty and/or milestone payments.

8.4 First Product Purchase. Verily agrees to purchase [***] units of First Product [***], and prepay for that Product within 14 days after [***], where the prices shall be no higher than [***].

8.5 Payment Terms. All cash payments due under this Agreement shall be made by bank wire transfer in immediately available funds to an account designated by the receiving Party. All payments hereunder shall be made in the legal currency of the United States of America, and all references to "$" or "Dollars" shall refer to United States dollars. Except as otherwise provided herein, all payments due to a Party hereunder shall be due and payable within thirty (30) days of

achievement of the applicable milestone event as set forth herein, subject to receipt of a proper invoice from the other Party. If any withholding taxes, levies or similar taxes is due with respect to such a payment, such amounts shall be payable by the paying Party to the applicable taxing authority, including any tax or withholding levied by a foreign taxing authority in respect of the payment or accrual of any product fee. Each Party agrees to assist the other Party as reasonably requested by the other Party in claiming exemption from or otherwise reducing such deductions or withholdings under any taxation or similar agreement or treaty from time to time in force.

8.6 Stock Purchase Agreement. DexCom shall issue any DexCom Common Stock to be issued to Verily or Onduo as described in this Agreement pursuant to the stock purchase agreement attached hereto as Exhibit 8.6 (the "**Stock Purchase Agreement**"); *provided* that if DexCom is unable to deliver the shares under the Stock Purchase Agreement in accordance with the terms of the Stock Purchase Agreement, DexCom shall make the applicable payment in cash at the scheduled time for such Closing (as defined in the Stock Purchase Agreement).

8.7 Reports. Until such time as DexCom has paid all of the Milestone Payments set forth in Section 8.2.1, DexCom shall provide to Verily, within forty-five (45) days of the end of each calendar quarter, a reasonably detailed report setting forth worldwide Total Product Revenue broken down by Product and territory, together with such substantiating information reasonably requested by Verily for purposes of confirming the accuracy of the Total Product Revenue calculation (which information may be redacted with respect to information unrelated to the calculation of Total Product Revenue).

8.8 Inspection of Records. This Section 8.8 shall be in effect until such time as DexCom has paid to Verily all of the Milestone Payments set forth in Section 8.2.1. DexCom shall, and shall cause its Affiliates and Third Parties acting on their behalf or under their authority, to keep full and accurate books and records regarding the sales of the First Product, Second Product, Third Product and any Additional Products and/or Alternative Product. DexCom shall permit Verily, by independent qualified public accountants engaged by Verily and reasonably acceptable to DexCom, to examine such books and records for the sole purposes of verifying the accuracy of the reports provided pursuant to Section 8.7. Such examination may be conducted at any reasonable time, but not later than three (3) years following the rendering of any corresponding reports, accountings and payments pursuant to Section 8.7. Such inspections may be made no more than once each calendar

year, at reasonable times and on reasonable prior written notice. The records for any particular calendar quarter shall be subject to no more than one inspection. The accountant shall be obligated to execute a reasonable confidentiality agreement prior to commencing any such inspection. Any inspection conducted under this Section 8.8 shall be at the expense of Verily, unless such inspection reveals that a Milestone Event had been achieved and DexCom did not provide the applicable notice to Verily pursuant to Section 8.2.5 in which case such inspection shall be at the expense of DexCom. Any underpayment shall be paid within fifteen (15) Business Days with interest on the underpayment at the rate specified in Section 8.9 from the date such payment was originally due; and any overpayment may be credited against future payments hereunder without interest or if there will be no future payments by DexCom, then reimbursed within fifteen (15) Business Days. Any disputes arising under this Section 8.8 regarding any discrepancy identified by the accountant shall be subject to resolution under Article 13.

8.9 Late Payment. Any payments or portions thereof due hereunder which are not paid when due shall bear interest at the rate of one and a half percent (1.5%) per month from the payment due date until paid in full. This Section 8.9 shall in no way limit any other remedies available to either Party.

8.10 Currency Conversion. With respect to sales invoiced and received in a currency other than U.S. Dollars, such sales shall be converted into the U.S. Dollar equivalent in accordance with DexCom's standard practices used in preparing its audited financial statements for the applicable calendar quarter and DexCom shall provide Verily the basis for such conversion.

8.11 Collaboration Costs. Except as otherwise expressly provided herein or otherwise agreed by the Parties, each Party shall bear all of its own costs and costs of any Third Party acting on its behalf in carrying out those activities assigned to it under the Collaboration.

8.12 Stock Splits. The number of shares of DexCom Common Stock issuable hereunder shall be adjusted for any stock dividend, stock split, combination of shares, reorganization, recapitalization, reclassification or other similar event with respect to DexCom Common Stock after the date of this Agreement.

Article 9.
INTELLECTUAL PROPERTY

9.1 Ownership.

9.1.1 DexCom Collaboration IP. As between the Parties, DexCom shall solely own all right, title and interest to any and all:

(a) Collaboration IP that is [***], whether developed solely by a Party or jointly by the Parties. For purposes of clarity, DexCom shall own any [***] in the First Product, Second Product, Third Product and/or any Additional Product (in each case, whether such Products are Launched or not);

(b) Collaboration IP that is copyright in or that is Assigned Software.

(c) Collaboration IP that is DexCom Other Collaboration IP.

The foregoing under (a), (b) and (c), collectively, the "**DexCom Collaboration IP**".

Subject to Section 9.1.4, to the extent Verily and/or its Affiliates has or acquires any right, title or interest (including any IP) in or to any DexCom Collaboration IP, Verily shall assign, and does hereby assign to DexCom (and shall cause its Affiliates to assign), any such right, title and/or interest (including any IP).

9.1.2 Verily Collaboration IP. As between the Parties, Verily shall solely own all right, title and interest to any and all Verily Collaboration IP.

9.1.3 Joint Collaboration IP. All right, title and interest to any and all Joint Collaboration IP shall be jointly owned by DexCom and Verily. Each Party shall assign, and does hereby assign to the other Party an undivided joint interest in the Joint Collaboration IP. Subject to the licenses and other rights or exclusivities granted to the other Party herein (including in Article 7), (i) each Party reserves the right to use, practice or otherwise exploit its solely owned Collaboration IP (DexCom Collaboration IP with respect to DexCom and Verily Collaboration IP with respect to Verily) and the Joint Collaboration IP; and (ii) neither Party shall have any obligation to account

to the other Party for profits, or to obtain any approval of the other Party to license, assign, enforce (subject to Section 9.5) or otherwise exploit any Joint Collaboration IP or intellectual property with respect thereto, by reason of joint ownership thereof, and each Party hereby waives any right it may have under the applicable Law of any jurisdiction to require any such approval or accounting.

9.1.4 Retained Know-How. Notwithstanding Section 9.1.1, Verily shall have no obligation to assign to DexCom any Know-How developed by Verily and included in DexCom Collaboration IP, except to the extent such Know-How (i) consists of subject matter that is patentable, copyrightable or otherwise registrable, or is otherwise claimed or included in a Patent, copyright registration or other statutory registration owned by DexCom under Section 9.1.1 (it being understood that the IP assigned to DexCom under Section 9.1.1 includes the right to seek patent, copyright or any other available statutory protection) or (ii) is expressly identified as DexCom-owned Know-How in [***]. Any Know-How developed by Verily and included in DexCom Collaboration IP, which Know-How is not assigned to DexCom under this Section 9.1.4 ("**Verily Retained Know-How**") shall be deemed part of Verily Collaboration IP and, without limiting the foregoing, shall be licensed to DexCom under Section 7.1.1(a) and 7.1.2(b) and subject to use and disclosure restrictions in Section 11.2.

9.1.5 Each Party shall disclose under the coordination of the Executive Sponsors to the other Party all Collaboration IP first conceived in the course of its performance of the [***] (or in the course of the Parties' activities [***], to the extent not disclosed previously) or required for the other Party to perform the activities assigned to it [***], and the Parties shall work in good faith, together with their respective counsel, to jointly identify respective lists of [***], Verily Software IP, or other Collaboration IP. Notwithstanding anything to the contrary, DexCom will have no obligation to share information with Verily regarding [***] and Verily will have no obligation to share information with DexCom regarding patenting Verily Software IP. The Parties will form a Patent Review Committee with equal representation. The composition, rules, and roles of the Patent Review Committee shall be defined under the Patent Committee Rules, which have been exchanged between the Parties in as of the Effective Date can be amended by consensus of the Patent Review Committee from time to time without amending this Agreement. If there is a conflict between the Patent Committee Rules and the Agreement, the Agreement shall govern. The representative(s) of each Party in the Patent Review Committee will consult with each other on patent claiming strategy for the Collaboration Patents in furtherance of [***].

9.1.6 The Parties acknowledge and agree that (i) DexCom has developed and will continue to develop [***] other than the Products outside the scope of the Collaboration, and (ii) to the extent DexCom uses in the Collaboration components or other technology from such [***], in no event shall such components or technology be deemed part of Joint Collaboration IP or licensed to Verily other than as expressly set forth in Section 7.2.1.

9.2 Joint Research Agreement**.** The Parties hereby acknowledge that this Agreement qualifies as a "joint research agreement" as defined in 35 U.S.C. § 100(h) and agree that the Parties will cooperate to take advantage of the "joint research agreement" provisions of 35 U.S.C. § 102(c), including by the filing of a terminal disclaimer as provided for in Manual of Patent Examining Procedure Section 717.02(c), if reasonably prudent or necessary during the filing and/or prosecution of a patent application that is subject to a license grant or assignment under this Agreement.

9.3 Patent Prosecution.

9.3.1 Verily Patents. As between the Parties, Verily shall have the right to control the Prosecution and Maintenance of the Verily Licensed Patents and Joint Collaboration Patents with at least one Verily inventor using counsel of its choice. Verily agrees to: (a) keep DexCom reasonably informed with respect to such activities; and (b) consult in good faith with DexCom regarding such matters, including notice prior to the abandonment of any claims thereof covering the Products and in the [***]. If Verily does not want to Prosecute and Maintain any of the Joint Collaboration Patents, then Verily shall give DexCom sufficient notice (i.e. in order to avoid any adverse events such as missing a filing deadline) and DexCom shall have the right to control the Prosecution and Maintenance of such Joint Collaboration Patents.

9.3.2 DexCom Patents. As between the Parties, DexCom shall have the right to control the Prosecution and Maintenance of the DexCom Collaboration Patents and Joint Collaboration Patents without any Verily inventors using counsel of its choice. DexCom agrees to: (i) keep Verily reasonably informed with respect to such activities; and (ii) consult in good faith with Verily regarding such matters, including notice prior the abandonment of any claims thereof covering the Products.

9.3.3 Filing Notice. Each Party agrees to give notice to the other Party at least four weeks prior to filing of any new patent application that constitutes Collaboration IP and highlight

any proposed inclusion of the other Party's Confidential Information in such new patent application. Such Party will consult with the other Party in good faith to resolve any objections to inventorship (under applicable law) and/or content of the patent application.

9.4 Defense of Third Party Infringement Claims. During the Term, if any Product that is Commercialized by DexCom or its Affiliates becomes the subject of a Third Party's claim or assertion of infringement of a Patent relating to the manufacture, use, sale, offer for sale or importation of such Product, the Party first having notice of the claim or assertion shall promptly notify the other Party, and the Parties shall promptly confer to consider the claim or assertion and the appropriate course of action. Except as provided in Section 11.4, or by separate written agreement of the Parties, each Party shall have the right to defend itself against a suit that names it as a defendant (the "**Defending Party**"). Except as provided in Section 11.4, neither Party shall enter into any settlement of any claim described in this Section 9.4 that adversely affects the other Party's rights or interests without such other Party's written consent, which consent shall not be unreasonably conditioned, withheld or delayed. In any event, the other Party shall reasonably assist the Defending Party and cooperate in any such litigation at the Defending Party's request and expense.

9.5 Enforcement.

9.5.1 Notice. Subject to the provisions of this Section 9.5 and during the Term, in the event that either Party reasonably believes that any Verily Licensed Patent (a) is being infringed by a Third Party or (b) is or will become subject to a declaratory judgment action arising from such infringement, in each case, (a) and (b), which infringement arises from the manufacture, sale, use or import of a [***] in the Territory (an "**Infringing Product**") such Party shall promptly notify the other Party.

9.5.2 Enforcement in the [***]. During the Term, DexCom shall have the initial right (but not the obligation), at its expense, to enforce the Verily Licensed Patents in the [***] or to defend any declaratory judgment action with respect thereto in the Territory (each, an "**Enforcement Action**"). Prior to the commencement of any activity by DexCom with respect to an Enforcement Action, (a) DexCom shall provide thirty (30) days advance written notice to Verily and (b) if requested by Verily, DexCom shall consult in good faith with respect to such Enforcement Action and consider in good faith Verily's input, including to prevent any Verily Licensed Patent

to be subject to undue risk of invalidation. DexCom agrees not to settle any Enforcement Action, or intentionally make any admissions or assert any position in such Enforcement Action, in a manner that would materially adversely affect the validity, enforceability or scope of any Verily Licensed Patent in or outside the Territory, without the prior written consent of Verily, which shall not be unreasonably withheld, conditioned or delayed. In the event that DexCom or its designee fails to commence or defend an Enforcement Action with respect to Infringing Products in the Territory within [***] of a request by Verily to do so (or such shorter period as is necessary to bring and maintain such action), Verily or its designee may commence an Enforcement Action with respect to such Infringing Products at its own expense. In such case, Verily agrees not to settle any Enforcement Action, or intentionally make any admissions or assert any position in such Enforcement Action, in a manner that would materially adversely affect DexCom's rights or interests in [***] in the Territory, without the prior written consent of DexCom, which shall not be unreasonably withheld, conditioned or delayed.

9.5.3 Enforcement Outside of the [***]. As between the Parties, Verily shall have the sole right (but not the obligation), at its expense, to enforce the Verily Licensed Patents outside of the [***].

9.5.4 Cooperation. The Party commencing, controlling or defending any action under Section 9.5.2 (such Party, the "**Enforcing Party**") shall keep the other Party reasonably informed of the progress of any such Enforcement Action, and such other Party shall have the right to participate with counsel of its own choice at its own expense. The non-Enforcing Party hereby gives the Enforcing Party the right to name the non- Enforcing Party in any Enforcement Action if required for standing. In any event, the other Party shall reasonably cooperate with the Enforcing Party, including providing information and materials, at the Enforcing Party's request and expense. The Enforcing Party shall also have the right to control settlement of such Enforcement Action; *provided, however*, no settlement shall be entered into without the consent of the other Party, which consent not to be unreasonably withheld, conditioned or delayed, if such settlement would materially and adversely affect the interests of the other Party.

9.5.5 Recoveries. Any recovery received as a result of any Enforcement Action to enforce a Patent pursuant to Section 9.5.2 shall be used first to reimburse the Parties for the costs and expenses (including attorneys' and professional fees) incurred in connection with such

Enforcement Action (and not previously reimbursed), and the remainder of the recovery shall be shared (a) for any Enforcement Action in the [***] and (b) for any Enforcement Action [***].

Article 10.
CONFIDENTIALITY

10.1 Confidentiality; Exceptions. Except to the extent expressly authorized by this Agreement or otherwise agreed by the Parties in writing, the Parties agree that the receiving Party shall keep confidential and shall not publish or otherwise disclose or use for any purpose other than as provided for in this Agreement any confidential or proprietary information or materials or Know-How furnished to it by the other Party pursuant to this Agreement and the terms and conditions of this Agreement (collectively, "**Confidential Information**"). Notwithstanding the foregoing, Confidential Information shall not be deemed to include information or materials to the extent that it can be established by the receiving Party that such information or material:

10.1.1 was already known to or possessed by the receiving Party, other than under an obligation of confidentiality (except to the extent such obligation has expired or an exception is applicable under the relevant agreement pursuant to which such obligation established), at the time of disclosure;

10.1.2 was generally available to the public or otherwise part of the public domain at the time of its disclosure to the receiving Party;

10.1.3 became generally available to the public or otherwise part of the public domain after its disclosure and other than through any act or omission of the receiving Party in breach of this Agreement;

10.1.4 was independently developed by the receiving Party without use of or reference to the disclosing Party's Confidential Information as demonstrated by documented evidence prepared contemporaneously with such independent development; or

10.1.5 was disclosed to the receiving Party on a non-confidential basis by a Third Party having the right to make such non-confidential disclosure.

10.2 Authorized Use and Disclosure. Each Party may use and disclose Confidential Information of the other Party as follows: (a) under appropriate confidentiality provisions substantially equivalent to those in this Agreement in connection with the performance of its obligations or exercise of rights granted to such Party in this Agreement; (b) to the extent such disclosure is reasonably necessary for the Prosecution and Maintenance of Patents (including applications therefor) in accordance with Section 9.3, prosecuting or defending litigation, filing for and conducting preclinical or clinical trials, obtaining and maintaining Regulatory Approvals for Products; (c) in communication with existing and potential acquirers, investors, strategic partners, licensees, distributors, consultants, advisors (including financial advisors, lawyers and accountants) and others on a need to know basis, in each case, under appropriate confidentiality provisions substantially equivalent to those of this Agreement; (d) for the purposes of the performance of this Agreement and exercising any rights of a Party pursuant to this Agreement and in connection with the grant of any license pursuant to Article 7 of this Agreement; or (e) to the extent mutually agreed to by the Parties. Notwithstanding the foregoing, and without limiting Section 9.1.4, to the extent any Verily Retained Know-How is Confidential Information, (i) such Verily Retained Know-How shall not be used by Verily or its Affiliates in the [***] except to perform the activities contemplated in the Agreement, (ii) Verily and its Affiliates shall not disclose to any Third Party in the [***] any such Verily Retained Know-How without DexCom's prior written consent except where such disclosure is for purposes of performing activities under this Agreement, and (iii) without limiting the foregoing, any disclosure of Verily Retained Know-How to any Third Party shall be under a use restriction limiting such use of such Verily Retained Know-How to be outside of [***]. In addition, to the extent any Know-How is assigned to DexCom under this Agreement, such Know-How shall be protected as DexCom's Confidential Information under this Article 7. Furthermore, during the Term, to the extent any proprietary, non-public Know-How is included in Joint Collaboration IP ("**Joint Collaboration Know-How**"), then (i) such Joint Collaboration Know-How shall not be used by Verily or its Affiliates in [***] except to perform the activities contemplated in the Agreement, (ii) Verily and its Affiliates shall not disclose to any Third Party for use in [***] any such Joint Collaboration Know-How without DexCom's prior written consent, and (iii) without limiting the foregoing, any disclosure of Joint Collaboration Know-How to any Third Party shall be under a use restriction limiting such use of such Joint Collaboration Know-How to be outside of [***].

10.3 Methods Marking Requirement. Any non-public algorithm or other method shared by a Party under this Agreement that is outside of the scope of [***] and is not marked or identified by such Party as confidential or proprietary will not be considered Confidential Information.

10.4 Required Disclosures. Notwithstanding anything to the contrary in this Agreement, each Party may make any disclosures required of it by applicable Law or the rules of a stock exchange upon which a Party's capital stock is listed, provided that (a) the Party required to make such disclosure (the "**Required Party**") shall notify the other Party in writing of the proposed content of the required disclosures at least five (5) Business Days prior to the date on which the disclosure is to be made, except with respect to the current report on Form 8-K to be filed by DexCom immediately following the execution of this Agreement regarding its entry into this Agreement, and the non-Required Party shall be entitled to reasonably comment with respect to the form and content of such required disclosure, which the Required Party shall consider in good faith; (b) if so requested by the non-Required Party in the case of disclosures required by applicable Law, the Required Party shall use reasonable efforts to obtain an order protecting to the maximum extent possible the confidentiality of the provisions of this Agreement and the non-Required Party's Confidential Information as reasonably requested by the non-Required Party; and (c) if the Parties are unable to agree on the form or content of any required disclosure, such disclosure shall be limited to the minimum required as determined by the Required Party in consultation with its legal counsel. Without limiting the foregoing, the Required Party shall provide the non-Required Party with a draft of the proposed redactions to the provisions of this Agreement, together with exhibits or other attachments hereto, to be filed by Verily or DexCom with the Securities and Exchange Commission (or other applicable regulatory body) or as otherwise required by Law, and the non-Required Party shall be entitled to reasonably comment with respect to the content of the redactions, which the Required Party shall consider in good faith.

10.5 Prior Agreements. This Agreement supersedes (a) the Non-binding Term Sheet between DexCom and Verily exchanged by the Parties in August and September, 2018, (b) the Collaboration and License Agreement between DexCom and Google Life Sciences LLC, dated August 10, 2015, as amended, (c) the and Non-binding Term Sheet for Collaboration and License Agreement between DexCom and Google Inc. dated June 29, 2015, and, (d) solely with regard to the subject matter of this Agreement and the information disclosed pursuant hereto, the Non-Disclosure Agreement dated April 6, 2015 between DexCom and Google Inc., acting on its behalf

and on behalf of its affiliates (collectively, the "**Prior Agreements**"). All Confidential Information disclosed by a Party under the Prior Agreements shall be deemed Confidential Information of such disclosing Party under this Agreement and shall be subject to the terms of this Article 10.

10.6 Publications. Each Party shall submit to the other Party any proposed publication or public disclosure containing clinical or scientific results for the Products at least thirty (30) days in advance to allow that Party to review such proposed publication or disclosure. The reviewing Party will promptly review such proposed publication or disclosure and make any objections or comments that it may have thereto, and the Parties shall discuss the advantages and disadvantages of publishing or disclosing such results. If the Parties are unable to agree on whether to publish or disclose the same, the matter shall be referred to the Executive Sponsors for review and comment. In resolving whether to publish or disclose the same, DexCom shall consider the good faith comments of Verily with respect thereto. This Section 10.6 shall not be deemed to limit the Parties' obligations under Section 10.1 above.

10.7 Press Release. Neither Party shall issue any press release or other public statement, whether oral or written, disclosing the existence of this Agreement, the terms hereof or any information relating to this Agreement without the prior written consent of the other Party.

Article 11.
REPRESENTATIONS, WARRANTIES AND COVENANTS; INDEMNIFICATION

11.1 General Representations and Warranties. Each Party represents and warrants to the other that:

11.1.1 it is duly organized and validly existing under the Laws of the jurisdiction of its incorporation, and has full corporate power and authority to enter into this Agreement and to carry out the provisions hereof;

11.1.2 it is duly authorized to execute and deliver this Agreement and to perform its obligations hereunder, and the person executing this Agreement on its behalf has been duly authorized to do so by all requisite corporate action;

11.1.3 this Agreement is legally binding upon it and enforceable in accordance with its terms. The execution, delivery and performance of this Agreement by it does not conflict with any agreement, instrument or understanding, oral or written, to which it is a party or by which it may be bound, nor violate any material applicable Law;

11.1.4 except for the Permitted Encumbrances, it has not granted, and shall not grant during the Term, any right to any Third Party which would conflict with the IP rights granted to the other Party hereunder;

11.1.5 it is not aware of any action, suit or inquiry or investigation instituted by any Person which questions or threatens the validity of this Agreement;

11.1.6 with respect to Verily only,

(a) Verily, together with its Affiliates, is the sole owner of the [***] and the [***] and has the exclusive right to such Patents to grant the licenses granted to DexCom hereunder;

(b) Verily will not assign or transfer any rights in the Verily Licensed Patents in a manner that would cause a license to be granted to a Third Party pursuant to [***];

(c) none of the agreements identified in Exhibit 1.63 grant any Third Party (i) any exclusive rights with respect to any of the Verily Licensed Patents in [***], (ii) any right to Verily Know-How in [***], (iii) any right to file applications for, prosecute, maintain, enforce or defend any of the Verily Licensed Patents in [***], or (iv) rights necessary to Develop, Manufacture and Commercialize [***];

(d) without limiting the foregoing, Verily has not, prior to the Effective Date, and will not have, as of the Effective Date, (i) assigned to any Third Party any Verily IP for which Verily granted any license or other rights to DexCom under the Original Agreement, or (ii) otherwise granted to any Third Party any rights to such Verily IP that, in each case (i) and (ii), adversely affect Verily's ability to grant rights to or in such Verily IP to the same extent that Verily granted such rights in the Original Agreement; and

(e) it will conduct its obligations under [***] and Commercialization Plan, including the Development of Products thereunder, using its employees or contractors that are obligated to assign to Verily and/or its Affiliates all rights in and to any Collaboration IP and associated intellectual property rights and to maintain in confidence all of the other Party's Confidential Information, and will not use any employee of an Affiliate in the conduct of such [***] and Commercialization Plan unless such employee is under such obligations of assignment and confidentiality.

11.1.7 DexCom Antitrust Representation. DexCom represents and warrants to Verily that DexCom, or if different its ultimate parent entity under the HSR Act, has determined that the value of the non-exempt assets it will acquire from Verily under this Agreement (including U.S. patent rights), as determined under the HSR Act (including 16 C.F.R. Section 801.10), is less than $84.4 million and has therefore concluded, taking into account the aggregation rules under the HSR Act, that the HSR Act's size of transaction test will not be satisfied, with respect to the non-exempt assets DexCom will acquire under this Agreement.

11.1.8 Verily Service Covenants. Verily covenants that the Verily Services provided by it hereunder will be provided by qualified professionals conforming to Verily's standard practices (in no event less than industry standard practices) governing the design and development of application software of the same general nature and complexity.

11.2 Disclaimer of Warranties. EXCEPT AS SET FORTH IN THIS ARTICLE 11, VERILY AND DEXCOM EXPRESSLY DISCLAIM ANY WARRANTIES OR CONDITIONS, EXPRESS, IMPLIED, STATUTORY OR OTHERWISE, WITH RESPECT TO THE SUBJECT MATTER OF THIS AGREEMENT (INCLUDING THE VERILY IP, VERILY BACKGROUND IP, JOINT COLLABORATION IP, OR COLLABORATION IP ASSIGNED TO DEXCOM FROM VERILY), INCLUDING ANY WARRANTY OF MERCHANTABILITY, NONINFRINGEMENT, OR FITNESS FOR A PARTICULAR PURPOSE, AND NONINFRINGEMENT OF THE INTELLECTUAL PROPERTY RIGHTS OF THIRD PARTIES.

11.3 Limitation of Liability. WITHOUT LIMITING EITHER PARTY'S INDEMNIFICATION OBLIGATIONS UNDER SECTION 11.4 BELOW, NEITHER PARTY SHALL BE LIABLE TO THE OTHER UNDER THIS AGREEMENT FOR ANY LOSS OF

PROFITS, LOSS OF BUSINESS, INTERRUPTION OF BUSINESS, INDIRECT, SPECIAL OR CONSEQUENTIAL DAMAGES OF ANY KIND SUFFERED BY SUCH OTHER PARTY FOR BREACH HEREOF, WHETHER BASED ON CONTRACT OR TORT CLAIMS OR OTHERWISE, EVEN IF SUCH PARTY HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH LOSS; PROVIDED, HOWEVER, THAT THE FOREGOING SHALL NOT APPLY TO ANY MATERIAL WILLFUL BREACH OF THIS AGREEMENT BY A PARTY OR A BREACH OF A PARTY'S CONFIDENTIALITY OBLIGATIONS UNDER ARTICLE 10.

11.4 Indemnification.

11.4.1 Indemnification by Verily. Verily hereby agrees to defend, hold harmless and indemnify (collectively, "**Indemnify**") DexCom and its Affiliates, and its and their agents, directors, officers and employees (the "**DexCom Indemnitees**") from and against any liability or expense (including reasonable legal expenses and attorneys' fees) (collectively, "**Losses**"), resulting from suits, claims, actions and demands, in each case brought by a Third Party (each, a "**Third-Party Claim**") arising out of (a) a breach of any of Verily's covenants, representations or warranties hereunder, (b) the gross negligence or willful misconduct or omission of Verily or its Affiliates under this Agreement, (c) actual or alleged infringement of the intellectual property rights of a Third Party by a Verily Service or deliverable of Verily under the Development Plan (" **Verily Deliverable**"), except to the extent that such infringement results from a modification, enhancement or improvement made or implemented by DexCom to the Verily Deliverable, or combination of the Verily Deliverable with materials not furnished by Verily. Verily's obligation to Indemnify the DexCom Indemnitees pursuant to this Section 11.4.1 shall not apply to the extent that any such Losses arise from the gross negligence or intentional misconduct of any DexCom Indemnitee, arise from any material breach by DexCom of this Agreement; or are Losses for which DexCom is obligated to Indemnify the Verily Indemnitees pursuant to Section 11.4.3. Verily may, at Verily's option, (i) obtain, at its expense, a license from such Third Party for the benefit of DexCom and its customers, and/or (ii) replace or modify the deliverable in question so that it is no longer infringing but provides comparable functionality. Verily's obligation to indemnify under this Section 11.4.1 shall not extend to use of its deliverable or Verily Service after Verily has offered or implemented a technically reasonable non-infringing alternative design with comparable functionality.

11.4.2 Indemnification by Verily for [***]. Verily hereby agrees to Indemnify the DexCom Indemnitees from and against any and all Losses resulting from a claim by [***].

11.4.3 Indemnification by DexCom. DexCom hereby agrees to Indemnify Verily and its Affiliates, and its and their agents, directors, officers and employees (the "**Verily Indemnitees**") from and against any and all Losses resulting from Third-Party Claims arising out of: (a) a breach of any of DexCom's covenants, representations or warranties hereunder, (b) the gross negligence or willful misconduct or omission of DexCom or its Affiliates under this Agreement, (c) actual or alleged infringement of the intellectual property rights of a Third Party by

a deliverable of DexCom under the Development Plan ("**DexCom Deliverable**"), except to the extent that such infringement results from a modification, enhancement or improvement made or implemented by Verily to the DexCom Deliverable, or combination of the DexCom Deliverable with materials not furnished by DexCom. DexCom's obligation to Indemnify the Verily Indemnitees pursuant to this Section 11.4.3 shall not apply to the extent that any such Losses arise from the gross negligence or intentional misconduct of any Verily Indemnitee, arise from any material breach by Verily of this Agreement or are Losses for which Verily is obligated to Indemnify the DexCom Indemnitees pursuant to Section 11.4.1.

11.4.4 Procedure. The indemnified Party shall provide the indemnifying Party with prompt notice of the Third-Party Claim or [***] giving rise to the indemnification obligation pursuant to this Section 11.4 and, to be eligible to be Indemnified hereunder, the exclusive ability to defend (with the reasonable cooperation of the indemnified Party) or settle any such claim; provided, however, that the indemnifying Party shall not enter into any settlement that admits fault, wrongdoing or damages without the indemnified Party's written consent, such consent not to be unreasonably withheld or delayed. The indemnified Party shall have the right to participate, at its own expense and with counsel of its choice, in the defense of any claim or suit that has been assumed by the indemnifying Party.

11.5 Insurance. Each Party shall obtain and maintain, during the term of this Agreement and for six (6) years thereafter, comprehensive general liability insurance, including products liability insurance and coverage for clinical trials. Such insurance shall be with reputable and financially secure insurance carriers, or self-insurance in a form and at levels consistent with industry standards based upon such Party's activities hereunder and indemnification obligations hereunder, and shall name the other Party as an additional insured. Such liability insurance or self-insurance shall be maintained on an occurrence basis to provide such protection after expiration or termination of the policy itself or this Agreement.

Article 12.
TERM AND TERMINATION

12.1 Term. This Agreement shall become effective as of the Effective Date and continue in full force and effect, unless earlier terminated pursuant to the other provisions of this Article 12,

until December 31, 2028, *provided* that upon achievement of the first revenue-related Milestone Event and the payment of the Milestone Payment related thereto (or corresponding cash amount calculated pursuant to Section 8.2.2) the term shall be extended until December 31, 2033 (the "**Term**").

12.2 Termination for Breach. Either Party may terminate this Agreement in the event the other Party materially breaches this Agreement, and such material breach shall have continued for [***] days after written notice thereof was provided to the breaching Party by the other Party. Any such termination shall become effective at the end of such [***] day period unless the breaching Party has cured any such material breach prior to the expiration of the [***] day period, provided, however, in the event that, following the Launch of the first Product, a good faith dispute arises with respect to the existence of any material breach of a Party's obligations to use Commercially Reasonable Efforts to Develop, Manufacture, Launch, or Commercialize (which material breach, if existing, would give the other Party the right to terminate this Agreement as set forth herein), such termination right shall be tolled commencing on the date of receipt of written notice of such good faith dispute until such time as the dispute is resolved pursuant to Article 13. If this Agreement is terminated following a tolling period as described in this Section 12.2, then, for purposes of determining what constitutes Verily Background IP, the "Term" shall be deemed to end on the date on which such termination would otherwise have been effective in the absence of such tolling.

12.3 General Effects of Expiration or Termination.

12.3.1 Accrued Obligations. Expiration or termination of this Agreement for any reason shall not release either Party of any obligation or liability which, at the time of such expiration or termination, has already accrued to the other Party or which is attributable to a period prior to such expiration or termination.

12.3.2 Non-Exclusive Remedy. Notwithstanding anything herein to the contrary, termination of this Agreement by a Party shall be without prejudice to other remedies such Party may have at Law or equity.

12.3.3 Licenses. Section 7.1 (Licenses to DexCom) (except for Section 7.1.6 (License to Verily Trademarks)) and Section 7.2.2 (License to [***]) shall survive any expiration or termination of Agreement, *provided however,* that: (i) each of the licenses granted to DexCom

pursuant to Section 7.1.1(a) and Section 7.1.4 shall (upon such expiration or termination) become non-exclusive (but shall otherwise be subject to the terms set forth therein); and (ii) for clarity, Section 7.1.5 (Covenant Not to Sue for DexCom [***]) will not apply beyond the limited period specified therein.

12.3.4 General Survival. In addition to the surviving provisions identified in Section 12.3.3. above, Article 1 (Definitions), Section 5.5 (Reporting), Section 7.3 (No Other Rights), Section 7.4 (Other Licenses), Article 8 (Payments) (except for Section 8.1 (Second Upfront Fee) unless such payment is due prior such termination or expiration and Section 8.2.3 (Incentive Payment) unless such payment is due before such termination or expiration, and provided that Section 8.7 (Reports) and Section 8.8 (Inspection of Records) survive only as long as DexCom or its Affiliates are Commercializing any Products), Section 9.1 (Ownership) (except for Section 9.1.5), Section 9.3 (Patent Prosecution), Section 9.5.3 (Enforcement Outside of [***]), Article 10 (Confidentiality) (except for the last sentence of 10.2 with respect to Joint Collaboration Know-How), Section 11.2 (Disclaimer of Warranties), Section 11.3 (Limitation of Liability), Section 11.4 (Indemnification), Section 11.5 (Insurance), Section 12.3 (General Effects of Expiration or Termination), Article 13 (Dispute Resolution), and Article 14 (Miscellaneous) shall survive expiration or termination of this Agreement for any reason, *provided however*, that: (i) if this Agreement terminates for Verily's breach or bankruptcy, then in addition to the foregoing, Section 7.6 ([***] Supply) shall survive for 2 years after such termination; and (ii) for clarity, Section 11.5 (Insurance) will not apply beyond the limited period specified therein. Except as otherwise provided in this Section 12.3.4, all rights and obligations of the Parties under this Agreement shall terminate upon expiration or termination of this Agreement for any reason.

Article 13.
DISPUTE RESOLUTION

13.1 Dispute Resolution. The Parties agree that any dispute, controversy or claim arising from or in connection with (a) the interpretation, enforcement, termination or invalidity of this Agreement, (b) the failure of the Executive Sponsors to reach unanimous agreement on any issue within their authority under this Agreement, (c) any alleged failure to perform, or breach of, this Agreement, (d) or claim relating to the ownership, scope, validity, enforceability or infringement of any Patent rights covering the manufacture, use or sale of any Product or of any Trademark rights

relating to any Product, or (e) any issue relating to the interpretation or application of this Agreement (each, a "**Dispute**"), shall be first referred to the Chief Executives of DexCom and Verily for resolution in accordance with Section 2.1.2. In the event that the Chief Executives are unable to reach agreement with respect to such Dispute in accordance with Section 2.1.2, such Dispute shall be resolved through the procedures set forth in this Article 13.

13.2 Jurisdiction; Venue. Other than those Disputes resolved as described in Section 13.3 all Disputes shall be subject to the exclusive jurisdiction and venue of the federal courts within the State of California. Each Party hereto waives and covenants not to assert or plead any objection that such Party might otherwise have to such jurisdiction and venue. Except as set forth herein, each Party hereto hereby agrees not to commence any legal proceedings relating to or arising out of this Agreement or the transactions contemplated hereby in any jurisdiction or courts.

13.3 Executive Sponsor Disputes. Disputes as to matters within the authority of the Executive Sponsors will be resolved as set forth in Section 2.1.2 and shall not otherwise be subject to the provisions of this Article 13; provided that any Dispute as to the application of such Section 2.1.2 shall be subject to the provisions of this Article 13.

Article 14.
MISCELLANEOUS

14.1 Governing Law. This Agreement and any dispute arising from the performance or breach hereof shall be governed by and construed and enforced in accordance with the Law of the State of California, without reference to conflicts of laws principles.

14.2 Assignment. This Agreement shall not be assignable by either Party to any Third Party without the written consent of the other Party and any such attempted assignment shall be void. Notwithstanding the foregoing, either Party may assign this Agreement, without the written consent of the other Party, to an Affiliate or to an entity that acquires all or substantially all of the business or assets of such Party to which this Agreement pertains (whether by merger, reorganization, acquisition, sale or otherwise), and agrees in writing to be bound by the terms and conditions of this Agreement. No assignment or transfer of this Agreement shall be valid and effective unless and until the assignee/transferee agrees in writing to be bound by the provisions of this Agreement. The terms and conditions of this Agreement shall be binding on and inure to the benefit of the

permitted successors and assigns of the Parties. Notwithstanding Section 8.5, in the event any withholding or similar tax is levied by or due to an assignment of this Agreement or any obligation by a Party to an Affiliate or any Third Party, then such Party (itself or its successor) shall bear the full cost of such tax. Except as expressly provided in this Section 14.2, any attempted assignment or transfer of this Agreement shall be null and void.

14.3 Notices. Any notice, request, delivery, approval or consent required or permitted to be given under this Agreement shall be in writing and shall be deemed to have been sufficiently given if delivered in person, transmitted via electronic mail or by express courier service (signature required) or five (5) days after it was sent by registered letter, return receipt requested (or its equivalent), provided that no postal strike or other disruption is then in effect or comes into effect within two (2) days after such mailing, to the Party to which it is directed at its physical or email address shown below or such other address. Notices sent by electronic means shall be effective upon confirmation of receipt, notices sent by mail or overnight delivery service shall be effective upon receipt, and notices given personally shall be effective when delivered.

If to Verily, addressed to: Verily Life Sciences LLC
269 East Grand Avenue
South San Francisco, CA 94080
Attention: Andy Conrad
Email: [***]

With a copy to (which shall
not constitute notice): Verily Life Sciences LLC
269 East Grand Avenue
South San Francisco, CA 94080
Attention: General Counsel
Email: [***]
with a copy to verily-counsel@google.com

If to DexCom, addressed to: DexCom, Inc.
6340 Sequence Drive
San Diego, CA 92121
Attention: Kevin Sayer,
President and Chief Executive Officer

Email: [***]

With a copy (which shall not constitute notice) to: Fenwick & West LLP
801 California Street
Mountain View, CA 94041
Attention: Stefano Quintini and Michael Brown
Email: [***]

14.4 Waiver. Neither Party may waive or release any of its rights or interests in this Agreement except in writing. The failure of either Party to assert a right hereunder or to insist upon compliance with any term or condition of this Agreement shall not constitute a waiver of that right or excuse a similar subsequent failure to perform any such term or condition. No waiver by either Party of any condition or term in any one or more instances shall be construed as a continuing waiver of such condition or term or of another condition or term.

14.5 Severability. If any provision hereof should be held invalid, illegal or unenforceable in any jurisdiction, the Parties shall negotiate in good faith a valid, legal and enforceable substitute provision that most nearly reflects the original intent of the Parties and all other provisions hereof shall remain in full force and effect in such jurisdiction and shall be liberally construed in order to carry out the intentions of the Parties as nearly as may be possible. Such invalidity, illegality or unenforceability shall not affect the validity, legality or enforceability of such provision in any other jurisdiction. If a Party seeks to avoid a provision of this Agreement by asserting that such provision is invalid, illegal or otherwise unenforceable, such action shall be deemed to be a material breach of this Agreement.

14.6 No Third Party Beneficiaries. Except for the rights to indemnification provided for certain Third Parties as specified in Section 11.4 and as otherwise specified in this Section 14.6, all rights, benefits and remedies under this Agreement are solely intended for the benefit of DexCom and its Affiliates and Verily and its Affiliates, and except for such rights to indemnification expressly provided pursuant to Section 11.4, no Third Party shall have any rights whatsoever to (a) enforce any obligation contained in this Agreement (b) seek a benefit or remedy for any breach of this Agreement, or (c) take any other action relating to this Agreement under any legal theory, including, actions in contract, tort (including but not limited to, negligence, gross negligence and strict liability),

or as a defense, setoff or counterclaim to any action or claim brought or made by either Party. Notwithstanding the foregoing, Onduo shall be a Third Party beneficiary with respect to the obligations to make payments or transfer shares to Onduo under this Agreement, which payments shall be "Product Fee Payments" as referenced in the Contribution Agreement between Verily Life Sciences LLC and Onduo LLC.

14.7 Entire Agreement/Modification. This Agreement, including its Exhibits, sets forth all the covenants, promises, agreements, warranties, representations, conditions and understandings between the Parties and supersedes and terminates all prior agreements and understandings between the Parties including the Original Agreement and the Prior Agreements. No subsequent alteration, amendment, change or addition to this Agreement shall be binding upon the Parties unless reduced to writing and signed by the respective authorized officers of the Parties. All references to the Original Agreement in any other agreement or other document between the Parties that pre-dates the Effective Date shall, on and after the Effective Date, be deemed to refer to this Agreement (except to the extent, if any, that such interpretation would conflict with the terms of this Agreement as they refer or pertain to the Original Agreement).

14.8 Relationship of the Parties. The Parties agree that the relationship of Verily and DexCom established by this Agreement is that of independent contractors. Furthermore, the Parties agree that this Agreement does not, is not intended to, and shall not be construed to, establish an employment, agency or any other relationship. Except as may be specifically provided herein, neither Party shall have any right, power or authority, nor shall they represent themselves as having any authority to assume, create or incur any expense, liability or obligation, express or implied, on behalf of the other Party, or otherwise act as an agent for the other Party for any purpose.

14.9 Force Majeure. Except with respect to payment of money, neither Party shall be liable to the other for failure or delay in the performance of any of its obligations under this Agreement for the time and to the extent such failure or delay is caused by earthquake, riot, civil commotion, war, terrorist acts, strike, flood, or governmental acts or restriction or other cause, in each case to the extent beyond the reasonable control of the respective Party (any of the foregoing, "**Force Majeure Event**"). The Party affected by such force majeure will provide the other Party with full particulars thereof as soon as it becomes aware of the same (including its best estimate of the likely extent and duration of the interference with its activities), and will use Commercially Reasonable

Efforts to overcome the difficulties created thereby and to resume performance of its obligations as soon as practicable. If the performance of any such obligation under this Agreement is delayed owing to such a force majeure for any continuous period of more than [***] days, the Parties will consult with respect to an equitable solution.

14.10 Compliance with Laws/Other. Notwithstanding anything to the contrary contained herein, all rights and obligations of Verily and DexCom are subject to prior compliance with, and each Party shall comply with, all applicable Laws, including obtaining all necessary approvals required by the applicable agencies of the governments of the United States and foreign jurisdictions. In addition, each Party shall conduct its activities under the Collaboration in accordance with good scientific and business practices.

14.11 Counterparts. This Agreement may be executed in counterparts, each of which shall be deemed an original, and all of which together, shall constitute one and the same instrument.

14.12 Bankruptcy Matters. All licenses granted under this Agreement are deemed to be, for purposes of Section 365(n) of the United States Bankruptcy Code (the "**Bankruptcy Code**"), licenses of rights to "intellectual property" as defined in Section 101 of the Bankruptcy Code. The Parties agree that each Party may fully exercise all of its rights and elections under the Bankruptcy Code.

[The remainder of this page intentionally left blank; the signature page follows.]

IN WITNESS WHEREOF, the Parties have executed this Agreement in duplicate originals by their duly authorized representatives as of the Effective Date, with effect as of Effective Date.

VERILY LIFE SCIENCES LLC **VERILY IRELAND**

By: /s/ Andrew Conrad By: /s/ Kristian Marthinsen

Name: Andrew Conrad Name: Kristian Marthinsen

Title: Chief Operating Officer Title: Director

Date: Date: 11/19/2018

DEXCOM, INC.

By: /s/ Quentin Blackford

Name: Quentin Blackford

Title: Chief Financial Officer

Date: 11/20/18

List of Exhibits

Exhibit 1.92 – Permitted Encumbrances
Exhibit 1.143 – [***]
Exhibit 1.144 – [***]
Exhibit 1.153 – [***]

EXHIBIT 1.92
PERMITTED ENCUMBRANCES

[***]

[***] = CERTAIN CONFIDENTIAL INFORMATION CONTAINED IN THIS DOCUMENT, MARKED BY BRACKETS AND ASTERISKS, HAS BEEN OMITTED AND FILED SEPARATELY WITH THE SECURITIES AND EXCHANGE COMMISSION PURSUANT TO RULE 24B-2 OF THE SECURITIES EXCHANGE ACT OF 1934, AS AMENDED. CONFIDENTIAL TREATMENT HAS BEEN REQUESTED WITH RESPECT TO THE OMITTED INFORMATION.

EXECUTION COPY
CONFIDENTIAL

EXHIBIT 1.143
[***]

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

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

[***] = CERTAIN CONFIDENTIAL INFORMATION CONTAINED IN THIS DOCUMENT, MARKED BY BRACKETS AND ASTERISKS, HAS BEEN OMITTED AND FILED SEPARATELY WITH THE SECURITIES AND EXCHANGE COMMISSION PURSUANT TO RULE 24B-2 OF THE SECURITIES EXCHANGE ACT OF 1934, AS AMENDED. CONFIDENTIAL TREATMENT HAS BEEN REQUESTED WITH RESPECT TO THE OMITTED INFORMATION.

EXECUTION COPY
CONFIDENTIAL

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

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

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

[***] = CERTAIN CONFIDENTIAL INFORMATION CONTAINED IN THIS DOCUMENT, MARKED BY BRACKETS AND ASTERISKS, HAS BEEN OMITTED AND FILED SEPARATELY WITH THE SECURITIES AND EXCHANGE COMMISSION PURSUANT TO RULE 24B-2 OF THE SECURITIES EXCHANGE ACT OF 1934, AS AMENDED. CONFIDENTIAL TREATMENT HAS BEEN REQUESTED WITH RESPECT TO THE OMITTED INFORMATION.

EXECUTION COPY
CONFIDENTIAL

EXHIBIT 1.144
[***]

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

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

EXHIBIT 1.153
[***]

- [***]

[***]

[***]

[***]

- [***]

[***]

[***]

[***]

[***] = CERTAIN CONFIDENTIAL INFORMATION CONTAINED IN THIS DOCUMENT, MARKED BY BRACKETS AND ASTERISKS, HAS BEEN OMITTED AND FILED SEPARATELY WITH THE SECURITIES AND EXCHANGE COMMISSION PURSUANT TO RULE 24B-2 OF THE SECURITIES EXCHANGE ACT OF 1934, AS AMENDED. CONFIDENTIAL TREATMENT HAS BEEN REQUESTED WITH RESPECT TO THE OMITTED INFORMATION.

EXECUTION COPY
CONFIDENTIAL

EXHIBIT 8.6
STOCK PURCHASE AGREEMENT

[Previously Filed]

J.P. Morgan

AMENDED AND RESTATED CREDIT AGREEMENT

dated as of

December 19, 2018

by and among

DEXCOM, INC.,
as Borrower,

the Lenders party hereto,

and

JPMORGAN CHASE BANK,
NATIONAL ASSOCIATION,
as Administrative Agent

_____

JPMORGAN CHASE BANK, NATIONAL ASSOCIATION,
and
MERRILL LYNCH, PIERCE, FENNER & SMITH INC.,
as Joint Bookrunners and Joint Lead Arrangers

BANK OF AMERICA, N.A.,
and
SILICON VALLEY BANK,
as Co-Syndication Agents

ARTICLE I
DEFINITIONS

ARTICLE II
THE CREDITS

ARTICLE III
REPRESENTATIONS AND WARRANTIES

ARTICLE IV
CONDITIONS

ARTICLE V
AFFIRMATIVE COVENANTS

ARTICLE VI
NEGATIVE COVENANTS

ARTICLE VII
EVENTS OF DEFAULT

ARTICLE VIII
THE ADMINISTRATIVE AGENT; CREDIT BIDDING

ARTICLE IX
MISCELLANEOUS

SCHEDULES:

EXHIBITS:

AMENDED AND RESTATED CREDIT AGREEMENT dated as of December 19, 2018 (as it may be amended, restated, supplemented or otherwise modified from time to time, this "***Agreement***"), by and among DEXCOM, INC., a Delaware corporation (the "***Borrower***"), the Lenders party hereto, and JPMORGAN CHASE BANK, NATIONAL ASSOCIATION, as Administrative Agent.

R E C I T A L S:

WHEREAS, the Borrower is a party to that certain Credit Agreement dated as of June 17, 2016 by and among the Borrower, the lenders party thereto (collectively, the "Existing Lenders") and JPMorgan, as administrative agent, (as amended, restated, supplemented or otherwise modified prior to the date hereof, the "Existing Credit Agreement"), pursuant to which the Existing Lenders provided certain loans and other financial accommodations to the Borrower;

WHEREAS, the parties hereto desire to amend and restate the Existing Credit Agreement to, among other things, extend the maturity of the Loans; and

WHEREAS, in connection with the foregoing, the parties hereto agree that upon satisfaction of the conditions set forth in Sections 4.01 and 4.02, the Existing Credit Agreement shall be amended and restated in its entirety and superseded by this Agreement; provided, however, the obligation to repay the Obligations under the Existing Credit Agreement shall continue in full force and effect and shall be governed by the terms of this Agreement and corresponding Loan Documents.

AGREEMENT:

NOW, THEREFORE, in consideration of the foregoing Recitals and the mutual covenants set forth below, and intending to be legally bound, the parties hereto agree as follows:

ARTICLE 1
Definitions

SECTION 1.01. Defined Terms. As used in this Agreement, the following terms have the meanings specified below:

"***2017 Convertible Notes***" means the Borrower's unsecured convertible notes outstanding as of the Second Amendment Effective Date in aggregate principal amount equal to $400,000,000.

"***2018 Call Spread***" means call or capped call options (or a substantively equivalent derivative transaction) on Borrower's common stock purchased by, and warrants (if any) on the Borrower's common stock issued by, the Borrower, in each case, on or after the Second Amendment Effective Date and prior to December 31, 2018, with respect to its Equity Interests, such that (i) in the case of a purchase of a call option, the initial strike price per share is approximately equal to the initial conversion price of the 2018 Convertible Notes, (ii) the purpose of which is to hedge certain of the Borrower's obligations in respect of the 2018 Convertible Notes and (iii) the net premium payable (based on the aggregate premium paid by the Borrower for such purchased call options less the aggregate premium received by the Borrower for any such warrants) shall not exceed $75,000,000. As used herein, references to the "2018 Call Spread" include any component thereof.

"***2018 Convertible Notes***" means unsecured convertible notes issued by the Borrower on or after the Second Amendment Effective Date and prior to December 31, 2018 in an aggregate principal amount of not more than $1,000,000,000.

"***ABR***", when used in reference to any Loan or Borrowing, refers to whether such Loan, or the Loans comprising such Borrowing, bear interest at a rate determined by reference to the Alternate Base Rate.

"***Adjusted LIBO Rate***" means, with respect to any Eurodollar Borrowing for any Interest Period, an interest rate *per annum* (rounded upwards, if necessary, to the next 1/16 of 1%) equal to (a) the Eurocurrency Rate for such Interest Period multiplied by (b) the Statutory Reserve Rate.

"***Administrative Agent***" means JPMorgan Chase Bank, N.A. (including its branches and affiliates) in its capacity as administrative agent for the Lenders hereunder.

"***Administrative Questionnaire***" means an Administrative Questionnaire in a form supplied by the Administrative Agent.

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

"***Agent Party***" has the meaning assigned to it in Section 9.01(d).

"***Alternate Base Rate***" means, for any day, a rate *per annum* equal to the greatest of (a) the Prime Rate in effect on such day, (b) the NYFRB Rate in effect on such day plus ½ of 1% and (c) the Adjusted LIBO Rate for a one month Interest Period on such day (or if such day is not a Business Day, the immediately preceding Business Day) plus 1%, provided that, the Adjusted LIBO Rate for any day shall be based on the LIBO Screen Rate (or if the LIBO Screen Rate is not available for such one month Interest Period, the Interpolated Rate) at approximately 11:00 a.m. London time on such day. Any change in the Alternate Base Rate due to a change in the Prime Rate, the NYFRB Rate or the Adjusted LIBO Rate shall be effective from and including the effective date of such change in the Prime Rate, the NYFRB Rate or the Adjusted LIBO Rate, respectively. If the Alternate Base Rate is being used as an alternate rate of interest pursuant to Section 2.14, then the Alternate Base Rate shall be the greater of clause (a) and (b) above and shall be determined without reference to clause (c) above. For the avoidance of doubt, if the Alternate Base Rate as determined pursuant to the foregoing would be less than 1.00%, such rate shall be deemed to be 1.00% for purposes of this Agreement.

"***Anti-Corruption Laws***" means all laws, rules, and regulations of any jurisdiction applicable to the Borrower or any of its Subsidiaries from time to time concerning or relating to bribery or corruption.

"***Applicable Currency***" means dollars, Canadian Dollars, Euros, British Pounds, Swedish Kroner, Japanese Yen and any other currency determined after the Restatement Effective Date by mutual agreement of the Borrower, the Administrative Agent and each of the Revolving Lenders; provided that at all times each of the foregoing currencies (other than dollars) is a lawful currency that is readily available, freely transferable and not restricted, able to be converted into dollars and available in the London interbank deposit market.

"***Applicable Payment Office***" means, in the case of a Eurodollar Borrowing, the applicable Eurodollar Payment Office.

"***Applicable Percentage***" means, with respect to any Lender, the percentage of the total Commitments represented by such Lender's Commitment; provided that in the case of Section 2.20 when a Defaulting Lender shall exist, "Applicable Percentage" shall mean the percentage of the total Commitments (disregarding any Defaulting Lender's Commitment) represented by such Lender's Commitment. If the Commitments have terminated or expired, the Applicable Percentages shall be determined based upon the Commitments most recently in effect, giving effect to any assignments and to any Lender's status as a Defaulting Lender at the time of determination.

"***Applicable Rate***" means, for any day, with respect to any ABR Loan or Eurodollar Revolving Loan, or with respect to the commitment fees payable hereunder, as the case may be, the applicable rate *per annum* set forth below under the caption "ABR Spread", "Eurodollar Spread" or "Unused Commitment Fee Rate", as the case may be, based upon Total Leverage Ratio as of the most recent determination date, provided that until the delivery to the Administrative Agent, pursuant to Section 5.01, of the Borrower's consolidated financial information for the fiscal quarter ending December 31, 2018, the "Applicable Rate" shall be the applicable rates per annum set forth below in Level I:

Level:	Total Leverage Ratio	ABR Spread	Eurodollar Spread	Unused Commitment Fee Rate
Level I	Less than 1.00 to 1.00	0.375%	1.375%	0.200%
Level II	Greater than or equal to 1.00 to 1.00 but less than 2.00 to 1.00	0.500%	1.500%	0.225%
Level III	Greater than or equal to 2.00 to 1.00 but less than 3.00 to 1.00	0.750%	1.750%	0.250%
Level IV	Greater than or equal to 3.00 to 1.00	1.000%	2.000%	0.300%

For purposes of the foregoing, (a) the Applicable Rate shall be determined as of the end of each fiscal quarter of the Borrower, based upon the Borrower's annual or quarterly consolidated financial statements delivered pursuant to Section 5.01 and (b) each change in the Applicable Rate resulting from a change in the Total Leverage Ratio shall be effective during the period commencing on and including the date of delivery to the Administrative Agent of such consolidated financial statements indicating such change and ending on the date immediately preceding the effective date of the next such change, provided that (A) at any time that an Event of Default has occurred and is continuing or (B) at the option of the Administrative Agent or at the request of the Required Lenders, if the Borrower fails to deliver the annual or quarterly consolidated financial statements required to be delivered by it pursuant to Section 5.01, the Total Leverage Ratio shall be deemed to be in Level IV during the period from the expiration of the time for delivery thereof until such consolidated financial statements are delivered.

If at any time the Administrative Agent determines that the financial statements upon which the Applicable Rate was determined were incorrect (whether based on a restatement, fraud or otherwise), the Borrower shall be required to retroactively pay any additional amount that the Borrower would have been required to pay if such financial statements had been accurate at the time they were delivered.

"***Approved Electronic Platform***" has the meaning assigned to it in Section 8.03(a).

"***Approved Fund***" has the meaning assigned to it in Section 9.04(b).

"***Assignment and Assumption***" means an assignment and assumption entered into by a Lender and an assignee (with the consent of any party whose consent is required by Section 9.04), and accepted by the Administrative Agent, in the form of Exhibit A or any other form approved by the Administrative Agent.

"***Availability Period***" means the period from and including the Restatement Effective Date to but excluding the earlier of the Maturity Date and the date of termination of the Commitments.

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

"***Bail-In Legislation***" means, with respect to any EEA Member Country implementing Article 55 of Directive 2014/59/EU of the European Parliament and of the Council of the European Union, the implementing law for such EEA Member Country from time to time which is described in the EU Bail-In Legislation Schedule.

"***Banking Services***" means each and any of the following bank services provided to any Loan Party or any of their Subsidiaries by any Lender or any of its Affiliates: (a) credit cards for commercial customers (including, without limitation, "commercial credit cards" and purchasing cards), (b) stored value cards, (c) merchant processing services, and (d) treasury management services (including, without limitation, controlled disbursement, automated clearinghouse transactions, return items, any direct debit scheme or arrangement, overdrafts and interstate depository network services).

"***Banking Services Obligations***" means any and all obligations of the Loan Parties or their Subsidiaries, whether absolute or contingent and howsoever and whensoever created, arising, evidenced or acquired (including all renewals, extensions and modifications thereof and substitutions therefor) in connection with Banking Services.

"***Bankruptcy Code***" means the provisions of Title 11 of the United States Code, 11 U.S.C. §§ 101 et seq. or other applicable bankruptcy, insolvency or similar laws.

"***Bankruptcy Event***" means, with respect to any Person, such Person becomes the subject of a bankruptcy or insolvency proceeding, or has had a receiver, conservator, trustee, administrator, custodian, assignee for the benefit of creditors or similar Person charged with the reorganization or liquidation of its business appointed for it, or, in the good faith determination of the Administrative Agent, has taken any action in furtherance of, or indicating its consent to, approval of, or acquiescence in, any such proceeding or appointment, provided that a Bankruptcy Event shall not result solely by virtue of any ownership interest, or the acquisition of any ownership interest, in such Person by a Governmental Authority or instrumentality thereof, unless such ownership interest results in or provides such Person with immunity from the jurisdiction of courts within the United States or from the enforcement of judgments or writs of attachment on its assets or permit such Person (or such Governmental Authority or instrumentality) to reject, repudiate, disavow or disaffirm any contracts or agreements made by such Person.

"***Beneficial Ownership Certification***" means a certification regarding beneficial ownership or control as required by the Beneficial Ownership Regulation.

"***Beneficial Ownership Regulation***" means 31 C.F.R. § 1010.230.

"***Benefit Plan***" means any of (a) an "employee benefit plan" (as defined in Section 3(3) of ERISA) that is subje4ct to Title I of ERISA, (b) a "plan" as defined in Section 4975 of the Code to which Section 4975 of the Code applies, and (c) any Person whose assets include (for purposes of the Plan Asset Regulations

or otherwise for purposes of Title I of ERISA or Section 4975 of the Code) the assets of any such "employee benefit plan" or "plan".

"***Board***" means the Board of Governors of the Federal Reserve System of the United States of America.

"***Borrower***" has the meaning assigned to it in the preamble hereto.

"***Borrowing***" means Revolving Loans of the same Type, made, converted or continued on the same date and, in the case of Eurodollar Loans, as to which a single Interest Period is in effect.

"***Borrowing Availability***" means, as of any date of determination, the total Commitments minus the sum of the Total Revolving Credit Exposures (including, without duplication, the outstanding balance of Letter of Credit Obligations then outstanding).

"***Borrowing Request***" means a request by the Borrower for a Revolving Borrowing in accordance with Section 2.03.

"***Business Day***" means any day that is not a Saturday, Sunday or other day on which commercial banks in New York City are authorized or required by law to remain closed; provided that, when used in connection with a Eurodollar Loan, the term "Business Day" shall also exclude (a) any day on which banks are not open for general business in London and (b) any day on which banks are not open in the principal financial center of the Applicable Currency.

"***Capital Lease Obligations***" of any Person means the obligations of such Person to pay rent or other amounts under any lease of (or other arrangement conveying the right to use) real or personal property, or a combination thereof, which obligations are required to be classified and accounted for as capital leases on a balance sheet of such Person under GAAP, and the amount of such obligations shall be the capitalized amount thereof determined in accordance with GAAP.

"***CDOR Screen Rate***" means on any day for the relevant Interest Period, the annual rate of interest equal to the average rate applicable to Canadian dollar Canadian bankers' acceptances for the applicable period that appears on the "Reuters Screen CDOR Page" as defined in the International Swap Dealer Association, Inc. definitions, as modified and amended from time to time (or, in the event such rate does not appear on such page or screen, on any successor or substitute page or screen that displays such rate, or on the appropriate page of such other information service that publishes such rate from time to time, as selected by the Administrative Agent in its reasonable discretion), rounded to the nearest 1/100th of 1% (with .005% being rounded up), as of 10:15 a.m. Toronto local time on the first day of such Interest Period and, if such day is not a business day, then on the immediately preceding business day (as adjusted by Administrative Agent after 10:15 a.m. Toronto local time to reflect any error in the posted rate of interest or in the posted average annual rate of interest). If the CDOR Screen Rate shall be less than zero, the CDOR Screen Rate shall be deemed to be zero for purposes of this Agreement.

"***CFC***" has the meaning assigned to it in the definition of "Excluded Subsidiary."

"***CFC Holdco***" has the meaning assigned to it in the definition of "Excluded Subsidiary."

"***Change in Control***" means the acquisition of ownership, directly or indirectly, beneficially or of record, by any Person or group (within the meaning of the Securities Exchange Act of 1934 and the rules of

the SEC thereunder as in effect on the date hereof), of Equity Interests representing more than 40% of the aggregate ordinary voting power represented by the issued and outstanding Equity Interests of the Borrower.

"***Change in Law***" means the occurrence after the date of this Agreement or, with respect to any Lender, such later date on which such Lender becomes a party to this Agreement, of (a) the adoption of or taking effect of any law, rule, regulation or treaty, (b) any change in any law, rule, regulation or treaty or in the administration, interpretation, implementation or application thereof by any Governmental Authority or (c) compliance by any Lender or the Issuing Bank (or, for purposes of Section 2.15(b), by any lending office of such Lender or by such Lender's or the Issuing Bank's holding company, if any) with any request, guideline, requirement or directive (whether or not having the force of law) of any Governmental Authority made or issued after the date of this Agreement; provided that, notwithstanding anything herein to the contrary, (x) the Dodd-Frank Wall Street Reform and Consumer Protection Act and all requests, rules, guidelines, requirements or directives thereunder or issued in connection therewith or in the implementation thereof and (y) all requests, rules, guidelines, requirements or directives promulgated by the Bank for International Settlements, the Basel Committee on Banking Supervision (or any successor or similar authority) or the United States or foreign regulatory authorities, in each case pursuant to Basel III, shall be deemed to be a "Change in Law," regardless of the date enacted, adopted or issued or implemented.

"***Class***" when used in reference to any Loan or Borrowing, refers to whether such Loan, or the Loans comprising such Borrowing, are Revolving Loans or other Loans.

"***Code***" means the Internal Revenue Code of 1986, as amended.

"***Collateral***" means any and all property owned, leased or operated by a Person covered by the Collateral Documents and any and all other property of any Loan Party, now existing or hereafter acquired, that may at any time be, become or be intended to be, subject to a security interest or Lien in favor of the Administrative Agent, on behalf of itself and the Lenders and other Secured Parties, to secure the Secured Obligations, which, for the avoidance of doubt, shall not include any copyrights, patents, trademarks or other Intellectual Property or any other Excluded Assets (as defined in the Security Agreement).

"***Collateral Documents***" means, collectively, the Security Agreement and any other agreements, instruments and documents executed in connection with this Agreement that are intended to create, perfect or evidence Liens to secure the Secured Obligations, including, without limitation, all other security agreements, pledge agreements, mortgages, deeds of trust, loan agreements, pledges, powers of attorney, financing statements and all other written matter whether theretofore, now or hereafter executed by any Loan Party and delivered to the Administrative Agent.

"***Commitment***" means, with respect to each Lender, the commitment of such Lender to make Revolving Loans and to acquire participations in Letters of Credit hereunder, expressed as an amount representing the maximum aggregate amount of such Lender's Revolving Credit Exposure hereunder, as such commitment may be (a) reduced from time to time pursuant to Section 2.09, (b) increased pursuant to Section 2.21 and (c) reduced or increased from time to time pursuant to assignments by or to such Lender pursuant to Section 9.04. The initial amount of each Lender's Commitment is set forth on Schedule 2.01, or in the Assignment and Assumption pursuant to which such Lender shall have assumed its Commitment, as applicable. The initial aggregate principal amount of the Lenders' Commitments is $200,000,000.

"***Commodity Exchange Act***" means the Commodity Exchange Act (7 U.S.C. § 1 et seq.), as amended from time to time, and any successor statute.

"***Communications***" has the meaning assigned to it in Section 8.03(c).

"***Computation Date***" has the meaning assigned to it in Section 2.04.

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

"***Control***" means the possession, directly or indirectly, of the power to direct or cause the direction of the management or policies of a Person, whether through the ability to exercise voting power, by contract or otherwise. "***Controlling***" and "***Controlled***" have meanings correlative thereto.

"***Convertible Notes***" means the 2017 Convertible Notes and the 2018 Convertible Notes.

"***Copyrights***" means, with respect to any Person, all of such Person's right, title, and interest in and to the following: (a) all copyrights, rights and interests in copyrights, works protectable by copyright, copyright registrations, and copyright applications; (b) all renewals of any of the foregoing; (c) all income, royalties, damages, and payments now or hereafter due and/or payable under any of the foregoing, including, without limitation, damages or payments for past or future infringements for any of the foregoing; (d) the right to sue for past, present, and future infringements of any of the foregoing; and (e) all rights corresponding to any of the foregoing throughout the world.

"***Credit Event***" means a Borrowing, the issuance, amendment, renewal or extension of a Letter of Credit, an LC Disbursement or any of the foregoing.

"***Credit Party***" means the Administrative Agent, each Issuing Bank or any other Lender.

"***Default***" means any event or condition which constitutes an Event of Default or which upon notice, lapse of time or both would, unless cured or waived, become an Event of Default.

"***Defaulting Lender***" means any Lender that (a) has failed, within two (2) Business Days of the date required to be funded or paid, to (i) fund any portion of its Loans, (ii) fund any portion of its participations in Letters of Credit or (iii) pay over to any Credit Party any other amount required to be paid by it hereunder, unless, in the case of clause (i) above, such Lender notifies the Administrative Agent in writing that such failure is the result of such Lender's good faith determination that a condition precedent to funding (specifically identified and including the particular default, if any) has not been satisfied, (b) has notified the Borrower or any Credit Party in writing, or has made a public statement to the effect, that it does not intend or expect to comply with any of its funding obligations under this Agreement (unless such writing or public statement indicates that such position is based on such Lender's good faith determination that a condition precedent (specifically identified and including the particular default, if any) to funding a Loan under this Agreement cannot be satisfied) or generally under other agreements in which it commits to extend credit, (c) has failed, within three (3) Business Days after request by the Borrower or a Credit Party, acting in good faith, to provide a certification in writing from an authorized officer of such Lender that it will comply with its obligations (and is financially able to meet such obligations as of the date of certification) to fund prospective Loans and participations in then outstanding Letters of Credit under this Agreement, provided that such Lender shall cease to be a Defaulting Lender pursuant to this clause (c) upon such Credit Party's receipt of such certification in form and substance satisfactory to it and the Administrative Agent, or (d) has become the subject of (i) a Bankruptcy Event or (ii) a Bail-In Action.

"***Disclosed Matters***" means the actions, suits and proceedings and the environmental matters disclosed in Schedule 3.06.

"***Dividing Person***" has the meaning assigned to it in the definition of "***Division***".

"***Division***" means the division of the assets, liabilities and/or obligations of a Person (the "***Dividing Person***") among two or more Persons (whether pursuant to a "plan of division" or similar arrangement), which may or may not include the Dividing Person and pursuant to which the Dividing Person may or may not survive.

"***Division Successor***" means any Person that, upon the consummation of a Division of a Dividing Person, holds all or any portion of the assets, liabilities and/or obligations previously held by such Dividing Person immediately prior to the consummation of such Division. A Dividing Person which retains any of its assets, liabilities and/or obligations after a Division shall be deemed a Division Successor upon the occurrence of such Division.

"***Dollar Equivalent***" means, for any amount, at the time of determination thereof, (a) if such amount is expressed in dollars, such amount, (b) if such amount is expressed in a Foreign Currency, the equivalent of such amount in dollars determined by using the rate of exchange for the purchase of dollars with the Foreign Currency last provided (either by publication or otherwise provided to the Administrative Agent) by the applicable Thompson Reuters Corp. ("***Reuters***") source on the Business Day (New York City time) immediately preceding the date of determination or if such service ceases to be available or ceases to provide a rate of exchange for the purchase of dollars with the Foreign Currency, as provided by such other publicly available information service which provides that rate of exchange at such time in place of Reuters chosen by the Administrative Agent in its sole discretion (or if such service ceases to be available or ceases to provide such rate of exchange, the equivalent of such amount in dollars as determined by the Administrative Agent using any method of determination it deems appropriate in its sole discretion) and (c) if such amount is denominated in any other currency, the equivalent of such amount in dollars as determined by the Administrative Agent using any method of determination it deems appropriate in its sole discretion.

"***dollars***" or "***$***" refers to lawful money of the United States of America.

"***EBITDA***" means, for any period, Net Income for such period *plus* (a) without duplication and to the extent deducted in determining Net Income for such period, the sum of (i) Interest Expense for such period, (ii) income tax expense for such period, (iii) all amounts attributable to depreciation and amortization expense for such period, (iv) expenses relating to share-based compensation and (v) any other non-cash charges, non-cash losses or non-cash expenses for such period (but excluding any non-cash charge, loss or expense in respect of an item that was included in Net Income in a prior period), (vi) costs arising from or related to mergers, acquisitions, divestitures, or similar transactions permitted hereunder (including transition, retention and integration), in each case regardless of whether such transactions have been consummated, (vii) expenses with respect to earn-outs payable as a purchase price (or a portion thereof) in acquisitions, (viii) extraordinary, unusual and/or non-recurring charges, costs, credits or items or loss, determined on a consolidated basis in accordance with GAAP, (ix) any expenses or charges related to any equity financing or offering, investment, indebtedness or restricted payment permitted hereunder, or any modification to any instrument of indebtedness permitted hereunder, in each case regardless of whether such transaction has been consummated and including the Transaction Costs, (x) all expenses or charges (including deferred financing costs written off and premiums paid) in connection with any early extinguishment of debt, including hedging obligations or other derivative instruments, (xi) restructuring costs, reorganization costs, integration costs and other related one-time charges, provided that, for any trailing twelve month period, the aggregate amount added pursuant to this clause (xi) and clause (xii) shall not exceed the greater of (x) 15% of EBITDA for the applicable Reference Period (calculated before giving effect to such addbacks) and (y) $3,000,000, (xii) pro forma cost savings and synergies that are reasonably identifiable and factually supportable and realizable within 12 months of the closing of the applicable acquisition to which such add backs relate, provided that, for any trailing twelve month period, the aggregate amount added pursuant to

this clause (xii) and clause (xi) shall not exceed the greater of (x) 15% of EBITDA for the applicable Reference Period (calculated before giving effect to such addbacks) and (y) $3,000,000, and (xiii) cash expenses or charges to the extent fully indemnified by a third party or covered by insurance, but only to the extent (1) the applicable indemnification obligation or insurance policy remains in full force and effect, and (2) the counterparty to such indemnification obligation or applicable insurance provider has not refused or challenged a claim in writing for such indemnification or insurance payment, without duplication of any gains from such indemnification payment or insurance proceeds received in any subsequent period, *minus* (b) without duplication and to the extent included in Net Income, (i) any cash payments made during such period in respect of non-cash charges described in clause (a)(v) taken in a prior period and (ii) any non-cash items of income for such period, all calculated for the Borrower and its Subsidiaries on a consolidated basis in accordance with GAAP.

"***ECP***" means an "eligible contract participant" as defined in Section 1(a)(18) of the Commodity Exchange Act or any regulations promulgated thereunder and the applicable rules issued by the Commodity Futures Trading Commission and/or the SEC.

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

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

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

"***Electronic Signature***" means an electronic sound, symbol, or process attached to, or associated with, a contract or other record and adopted by a Person with the intent to sign, authenticate or accept such contract or record.

"***Electronic System***" means any electronic system, including e-mail, e-fax, web portal access for the Borrower and any other Internet or extranet-based site, whether such electronic system is owned, operated or hosted by the Administrative Agent or any Issuing Bank and any of its respective Related Parties or any other Person, providing for access to data protected by passcodes or other security system.

"***Environmental Laws***" means all laws, rules, regulations, codes, ordinances, orders, decrees, judgments, injunctions, notices or binding agreements issued, promulgated or entered into by any Governmental Authority, relating in any way to the environment, preservation or reclamation of natural resources, the management, Release or threatened Release of any Hazardous Material or to health and safety matters.

"***Environmental Liability***" means any liability, contingent or otherwise (including any liability for damages, costs of environmental remediation, fines, penalties or indemnities), of the Borrower or any Subsidiary directly or indirectly resulting from or based upon (a) any violation of any Environmental Law, (b) the generation, use, handling, transportation, storage, treatment or disposal of any Hazardous Materials, (c) any exposure to any Hazardous Materials, (d) the Release or threatened Release of any Hazardous

Materials into the environment or (e) any contract, agreement or other consensual arrangement pursuant to which liability is assumed or imposed with respect to any of the foregoing.

"***Equity Interests***" means shares of capital stock, partnership interests, membership interests in a limited liability company, beneficial interests in a trust or other equity ownership interests in a Person, and any warrants, options or other rights entitling the holder thereof to purchase or acquire any such equity interest.

"***Equivalent Amount***" of any currency with respect to any amount of dollars at any date shall mean the equivalent in such currency of such amount of dollars, calculated on the basis of the Exchange Rate for such other currency at 11:00 a.m., London time, on the date on or as of which such amount is to be determined.

"***ERISA***" means the Employee Retirement Income Security Act of 1974, as amended from time to time, and the rules and regulations promulgated thereunder.

"***ERISA Affiliate***" means any trade or business (whether or not incorporated) that, together with the Borrower, is treated as a single employer under Section 414(b) or (c) of the Code or Section 4001(14) of ERISA or, solely for purposes of Section 302 of ERISA and Section 412 of the Code, is treated as a single employer under Section 414 of the Code.

"***ERISA Event***" means (a) any "reportable event", as defined in Section 4043 of ERISA or the regulations issued thereunder with respect to a Plan (other than an event for which the 30 day notice period is waived); (b) the failure to satisfy the "minimum funding standard" (as defined in Section 412 of the Code or Section 302 of ERISA), whether or not waived; (c) the filing pursuant to Section 412(c) of the Code or Section 302(c) of ERISA of an application for a waiver of the minimum funding standard with respect to any Plan; (d) the incurrence by the Borrower or any of its ERISA Affiliates of any liability under Title IV of ERISA with respect to the termination of any Plan; (e) the receipt by the Borrower or any ERISA Affiliate from the PBGC or a plan administrator of any notice relating to an intention to terminate any Plan or Plans or to appoint a trustee to administer any Plan; (f) the incurrence by the Borrower or any of its ERISA Affiliates of any liability with respect to the withdrawal or partial withdrawal of the Borrower or any ERISA Affiliate from any Plan or Multiemployer Plan; or (g) the receipt by the Borrower or any ERISA Affiliate of any notice, or the receipt by any Multiemployer Plan from the Borrower or any ERISA Affiliate of any notice, concerning the imposition upon the Borrower or any ERISA Affiliate of Withdrawal Liability or a determination that a Multiemployer Plan is, or is expected to be, insolvent, in critical status or in reorganization, within the meaning of Title IV of ERISA.

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

"***EURIBOR Screen Rate***" means the euro interbank offered rate administered by the European Money Markets Institute (or any other person which takes over the administration of that rate) for the relevant period displayed (before any correction, recalculation or republication by the administrator) on page EURIBOR01 of the Thomson Reuters screen (or any replacement Thomson Reuters page which displays that rate) or on the appropriate page of such other information service which publishes that rate from time to time in place of Thomson Reuters as of 11:00 a.m. Brussels time two TARGET days prior to the commencement of such Interest Period. If such page or service ceases to be available, the Administrative Agent may specify another page or service displaying the relevant rate after consultation with the Company. If the EURIBOR Screen Rate shall be less than zero, the EURIBOR Screen Rate shall be deemed to be zero for purposes of this Agreement.

"***Eurocurrency Rate***" means,

(a) with respect to any Eurodollar Borrowing for any Applicable Currency (other than Euros, Canadian Dollars or Swedish Kroner), and for any Interest Period, the London interbank offered rate as administered by ICE Benchmark Administration (or any other Person that takes over the administration of such rate for the Applicable Currency for a period equal in length to such Interest Period) as displayed on pages LIBOR01 or LIBOR02 of the Reuters screen that displays such rate, and in the case of any Foreign Currency, the appropriate page of such service which displays the London interbank offered rate as administered by ICE Benchmark Administration for deposits in such Foreign Currency (or any other Person that takes over the administration of such rate for such Foreign Currency) for a period equal in length to such Interest Period (or, in the event such rate does not appear on a Reuters page or screen, on any successor or substitute page on such screen that displays such rate, or on the appropriate page of such other information service that publishes such rate from time to time as selected by the Administrative Agent in its reasonable discretion; in each case the "***LIBO Screen Rate***") at approximately 11:00 a.m., London time, two (2) Business Days prior to the commencement of such Interest Period; provided that if the LIBO Screen Rate shall be less than zero, such rate shall be deemed to be zero for the purposes of this Agreement;

(b) with respect to any Eurodollar Borrowing denominated in Euros and for any Interest Period, the EURIBOR Screen Rate; and

(c) with respect to any Eurodollar Borrowing denominated in Canadian Dollars and for any Interest Period, the CDOR Screen Rate; and

(c) with respect to any Eurodollar Borrowing denominated in Swedish Kroner and for any Interest Period, the STIBOR Screen Rate;

provided that if the LIBO Screen Rate, the EURIBOR Screen Rate, the CDOR Screen Rate or the STIBOR Screen Rate shall not be available at such time for such Interest Period (an "***Impacted Interest Period***") with respect to the Applicable Currency, then the LIBO Screen Rate, the EURIOBOR Screen Rate, the CDOR Screen Rate or the STIBOR Screen Rate, as applicable, shall be the Interpolated Rate; provided that if any Interpolated Rate shall be less than zero, such rate shall be deemed to be zero for purposes of this Agreement.

"***Eurodollar***" when used in reference to a currency means an Applicable Currency and when used in reference to any Loan or Borrowing, refers to whether such Loan, or the Loans comprising such Borrowing, are bearing interest at a rate determined by reference to the Adjusted LIBO Rate.

"***Eurodollar Payment Office***" of the Administrative Agent shall mean, for each Foreign Currency, the office, branch, affiliate or correspondent bank of the Administrative Agent for such currency as specified from time to time by the Administrative Agent to the Borrower and each Lender.

"***Event of Default***" has the meaning assigned to such term in Article VII.

"***Exchange Rate***" means, on any day, with respect to any Foreign Currency, the rate at which such Foreign Currency may be exchanged into dollars, as set forth at approximately 11:00 a.m., Local Time, on such date on the Reuters World Currency Page for such Foreign Currency. In the event that such rate does not appear on any Reuters World Currency Page, the Exchange Rate with respect to such Foreign Currency shall be determined by reference to such other publicly available service for displaying exchange rates as may be reasonably selected by the Administrative Agent or, in the event no such service is selected, such

Exchange Rate shall instead be calculated on the basis of the arithmetical mean of the buy and sell spot rates of exchange of the Administrative Agent for such Foreign Currency on the London market at 11:00 a.m., Local Time, on such date for the purchase of Dollars with such Foreign Currency, for delivery two (2) Business Days later; provided, that if at the time of any such determination, for any reason, no such spot rate is being quoted, the Administrative Agent, after consultation with the Borrower, may use any reasonable method it deems appropriate to determine such rate, and such determination shall be conclusive absent manifest error.

"***Excluded Subsidiary***" means (i) any Subsidiary that is a "controlled foreign corporation" within the meaning of the Code (a "***CFC***"), (ii) any Subsidiary substantially all the assets of which consist of Equity Interests of one or more CFCs (a "***CFC Holdco***"), and (iii) any Subsidiary of a CFC.

"***Excluded Swap Obligation***" means, with respect to any Guarantor, any Swap Obligation if, and to the extent that, all or a portion of the Guarantee of such Guarantor of, or the grant by such Guarantor of a security interest to secure, such Swap Obligation (or any Guarantee thereof) is or becomes illegal under the Commodity Exchange Act or any rule, regulation or order of the Commodity Futures Trading Commission (or the application or official interpretation of any thereof) by virtue of such Guarantor's failure for any reason to constitute an ECP at the time the Guarantee of such Guarantor or the grant of such security interest becomes or would become effective with respect to such Swap Obligation. If a Swap Obligation arises under a master agreement governing more than one swap, such exclusion shall apply only to the portion of such Swap Obligation that is attributable to swaps for which such Guarantee or security interest is or becomes illegal.

"***Excluded Taxes***" means any of the following Taxes imposed on or with respect to a Recipient or required to be withheld or deducted from a payment to a Recipient, (a) Taxes imposed on or measured by net income (however denominated), franchise Taxes, and branch profits Taxes, in each case, (i) imposed as a result of such Recipient being organized under the laws of, or having its principal office or, in the case of any Lender, its applicable lending office located in, the jurisdiction imposing such Tax (or any political subdivision thereof) or (ii) that are Other Connection Taxes, (b) in the case of a Lender, U.S. federal withholding Taxes imposed on amounts payable to or for the account of such Lender with respect to an applicable interest in a Loan, Letter of Credit or Commitment pursuant to a law in effect on the date on which (i) such Lender acquires such interest in the Loan, Letter of Credit or Commitment (other than pursuant to an assignment request by the Borrower under Section 2.19(b)) or (ii) such Lender changes its lending office, except in each case to the extent that, pursuant to Section 2.17, amounts with respect to such Taxes were payable either to such Lender's assignor immediately before such Lender acquired the applicable interest in a Loan, Letter of Credit or Commitment or to such Lender immediately before it changed its lending office, (c) Taxes attributable to such Recipient's failure to comply with Section 2.17(f) and (d) any U.S. federal withholding Taxes imposed under FATCA.

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

"***Federal Funds Effective Rate***" means, for any day, the rate calculated by the NYFRB based on such day's federal funds transactions by depositary institutions (as determined in such manner as the NYFRB shall set forth on its public website from time to time) and published on the next succeeding Business Day

by the NYFRB as the federal funds effective rate, provided that, if the Federal Funds Effective Rate as so determined would be less than zero, such rate shall be deemed to be zero for the purposes of this Agreement.

"***Financial Officer***" means the chief financial officer, vice president of finance, principal accounting officer, treasurer or controller of the Borrower.

"***Financial Statements***" means the financial statements to be furnished pursuant to Sections 5.01(a) and (b).

"***Flood Laws***" has the meaning assigned to such term in Section 8.10.

"***Foreign Currency***" means each Applicable Currency, other than dollars.

"***Foreign Currency LC Exposure***" means, at any time, the sum of (a) the Dollar Equivalent of the aggregate undrawn and unexpired amount of all outstanding Foreign Currency Letters of Credit at such time plus (b) the aggregate principal Dollar Equivalent of all LC Disbursements in respect of Foreign Currency Letters of Credit that have not yet been reimbursed at such time.

"***Foreign Currency Letter of Credit***" means a Letter of Credit denominated in a Foreign Currency.

"***Foreign Currency Sublimit***" means $50,000,000.

"***Foreign Lender***" means (a) if the Borrower is a U.S. Person, a Lender that is not a U.S. Person, and (b) if the Borrower is not a U.S. Person, a Lender that is resident or organized under the laws of a jurisdiction other than that in which the Borrower is resident for tax purposes.

"***GAAP***" means generally accepted accounting principles in the United States of America.

"***Governmental Authority***" means the government of the United States of America, any other nation or any political subdivision thereof, whether state or local, and any agency, authority, instrumentality, regulatory body, court, central bank or other entity exercising executive, legislative, judicial, taxing, regulatory or administrative powers or functions of or pertaining to government.

"***Governmental Authorizations***" means any and all permits, licenses, authorizations, certificates, registrations, accreditations and governmental or other approvals applied for, pending by, issued or given to any Loan Party or any of their Subsidiaries with or by any governmental or quasi-governmental authorities (federal, state, local or foreign) and all agreements with any governmental or quasi-governmental authorities (federal, state, local or foreign) entered into by any Loan Party or any of their Subsidiaries, that are in effect or applied for.

"***Guarantee***" of or by any Person (the "***guarantor***") means any obligation, contingent or otherwise, of the guarantor guaranteeing or having the economic effect of guaranteeing any Indebtedness of any other Person (the "***primary obligor***") in any manner, whether directly or indirectly, and including any obligation of the guarantor, direct or indirect, (a) to purchase or pay (or advance or supply funds for the purchase or payment of) such Indebtedness or to purchase (or to advance or supply funds for the purchase of) any security for the payment thereof, (b) to purchase or lease property, securities or services for the purpose of assuring the owner of such Indebtedness of the payment thereof, (c) to maintain working capital, equity capital or any other financial statement condition or liquidity of the primary obligor so as to enable the primary obligor to pay such Indebtedness or (d) as an account party in respect of any letter of credit or letter of guaranty

issued to support such Indebtedness; provided, that the term Guarantee shall not include endorsements for collection or deposit in the ordinary course of business.

"***Guarantors***" means all Loan Guarantors and all non-Loan Parties who have delivered an Obligation Guaranty, and the term "Guarantor" means each or any one of them individually.

"***Hazardous Materials***" means: (a) any substance, material, or waste that is included within the definitions of "hazardous substances," "hazardous materials," "hazardous waste," "toxic substances," "toxic materials," "toxic waste," or words of similar import in any Environmental Law, (b) those substances listed as hazardous substances by the United States Department of Transportation (or any successor agency) (49 C.F.R. Part 302 and amendments thereto) or by the Environmental Protection Agency (or any successor agency) (40 C.F.R. Part 302 and amendments thereto); and (c) any substance, material, or waste that is petroleum, petroleum related, or a petroleum by-product, asbestos or asbestos-containing material, polychlorinated biphenyls, flammable, explosive, radioactive, freon gas, radon, or a pesticide, herbicide, or any other agricultural chemical.

"***Impacted Interest Period***" has the meaning assigned to it in the definition of "Eurocurrency Rate."

"***Indebtedness***" of any Person means, without duplication, (a) all obligations of such Person for borrowed money or with respect to deposits or advances of any kind, (b) all obligations of such Person evidenced by bonds, debentures, notes or similar instruments, (c) all obligations of such Person upon which interest charges are customarily paid, (d) all obligations of such Person under conditional sale or other title retention agreements relating to property acquired by such Person, (e) all obligations of such Person in respect of the deferred purchase price of property or services (excluding current accounts payable incurred in the ordinary course of business), (f) all Indebtedness of others secured by (or for which the holder of such Indebtedness has an existing right, contingent or otherwise, to be secured by) any Lien on property owned or acquired by such Person, whether or not the Indebtedness secured thereby has been assumed, (g) all Guarantees by such Person of Indebtedness of others, (h) all Capital Lease Obligations of such Person, (i) any earn-out obligation to the extent such obligation is a liability on the balance sheet of such Person in accordance with GAAP, (j) all obligations, contingent or otherwise, of such Person as an account party in respect of letters of credit and letters of guaranty and (k) all obligations, contingent or otherwise, of such Person in respect of bankers' acceptances. The Indebtedness of any Person shall include the Indebtedness of any other entity (including any partnership in which such Person is a general partner) to the extent such Person is liable therefor as a result of such Person's ownership interest in or other relationship with such entity, except to the extent the terms of such Indebtedness provide that such Person is not liable therefor.

"***Indemnified Taxes***" means (a) Taxes, other than Excluded Taxes, imposed on or with respect to any payment made by or on account of any obligation of any Loan Party under any Loan Document and (b) to the extent not otherwise described in (a) hereof, Other Taxes.

"***Ineligible Institution***" has the meaning assigned to it in Section 9.04(b).

"***Intellectual Property***" means, with respect to any Person, any and all of such Person's (a) Patents, Trademarks and Copyrights, including any amendments, renewals and extensions thereof, (b) trade secrets and trade secret rights, including, without limitation, any rights to unpatented inventions, know-how, operating manuals, (c) source code, (d) design rights which may be available to such Person and (e) claims for damages by way of past, present and future infringement of any of the foregoing, with the right, but not the obligation, to sue for and collect such damages for said use or infringement of the Intellectual Property rights identified above.

"***Interest Coverage Ratio***" means, for any period, the ratio of (a) EBITDA to (b) cash Interest Expense in the four consecutive fiscal quarters ended on the last day of such period, all calculated for the Borrower and its Subsidiaries on a consolidated basis in accordance with GAAP.

"***Interest Election Request***" means a request by the Borrower to convert or continue a Revolving Borrowing in accordance with Section 2.08.

"***Interest Expense***" means, with reference to any period, total interest expense (including that attributable to Capital Lease Obligations) of the Borrower and its Subsidiaries for such period with respect to all outstanding Indebtedness of the Borrower and its Subsidiaries (including all commissions, discounts and other fees and charges owed with respect to letters of credit and bankers' acceptances and net costs under Swap Agreements in respect of interest rates, to the extent such net costs are allocable to such period in accordance with GAAP), calculated for the Borrower and its Subsidiaries on a consolidated basis for such period in accordance with GAAP.

"***Interest Payment Date***" means (a) with respect to any ABR Loan, the last day of each March, June, September and December and (b) with respect to any Eurodollar Loan, the last day of the Interest Period applicable to the Borrowing of which such Loan is a part and, in the case of a Eurodollar Borrowing with an Interest Period of more than three months' duration, each day prior to the last day of such Interest Period that occurs at intervals of three months' duration after the first day of such Interest Period.

"***Interest Period***" means with respect to any Eurodollar Borrowing, the period commencing on the date of such Borrowing and ending on the numerically corresponding day in the calendar month that is one, two, three or six months thereafter, as the Borrower may elect; provided, that (i) if any Interest Period would end on a day other than a Business Day, such Interest Period shall be extended to the next succeeding Business Day unless, in the case of a Eurodollar Borrowing only, such next succeeding Business Day would fall in the next calendar month, in which case such Interest Period shall end on the next preceding Business Day and (ii) any Interest Period pertaining to a Eurodollar Borrowing that commences on the last Business Day of a calendar month (or on a day for which there is no numerically corresponding day in the last calendar month of such Interest Period) shall end on the last Business Day of the last calendar month of such Interest Period. For purposes hereof, the date of a Borrowing initially shall be the date on which such Borrowing is made and, in the case of a Revolving Borrowing, thereafter shall be the effective date of the most recent conversion or continuation of such Borrowing.

"***Interpolated Rate***" means with respect to the LIBO Screen Rate, the EURIBOR Screen Rate, the CDOR Screen Rate or the STIBOR Screen Rate, as applicable, at any time, for any Interest Period, the rate *per annum* (rounded to the same number of decimal places as the LIBO Screen Rate, the EURIBOR Screen Rate, the CDOR Screen Rate or the STIBOR Screen Rate, as applicable) determined by the Administrative Agent (which determination shall be conclusive and binding absent manifest error) to be equal to the rate that results from interpolating on a linear basis between: (a) the LIBO Screen Rate, the EURIBOR Screen Rate, the CDOR Screen Rate or the STIBOR Screen Rate, as applicable, for the longest period (for which such rate is available for the Applicable Currency) that is shorter than the Impacted Interest Period; and (b) the LIBO Screen Rate, the EURIBOR Screen Rate, the CDOR Screen Rate or the STIBOR Screen Rate, as applicable, for the shortest period (for which such rate is available for the Applicable Currency) that exceeds the Impacted Interest Period, in each case, at such time.

"***IRS***" means the United States Internal Revenue Service.

"***Issuing Bank***" means JPMorgan in its capacity as the issuer of Letters of Credit hereunder, and its successors in such capacity as provided in Section 2.06(i). Any Issuing Bank may, in its discretion, arrange

for one or more Letters of Credit to be issued by Affiliates of such Issuing Bank, in which case the term "Issuing Bank" shall include any such Affiliate with respect to Letters of Credit issued by such Affiliate. Each reference herein to the "Issuing Bank" shall be deemed to be a reference to the relevant Issuing Bank.

"***JPMorgan***" means JPMorgan Chase Bank, National Association.

"***LC Disbursement***" means a payment made by the Issuing Bank pursuant to a Letter of Credit.

"***LC Exposure***" means, at any time, the sum of (a) the aggregate undrawn Dollar Equivalent of all outstanding Letters of Credit at such time plus (b) the aggregate Dollar Equivalent of all LC Disbursements that have not yet been reimbursed by or on behalf of the Borrower at such time. The LC Exposure of any Lender at any time shall be its Applicable Percentage of the total LC Exposure at such time.

"***Lender Parent***" means, with respect to any Lender, any Person as to which such Lender is, directly or indirectly, a subsidiary.

"***Lenders***" means the Persons listed on Schedule 2.01 and any other Person that shall have become a party hereto pursuant to an Assignment and Assumption, other than any such Person that ceases to be a party hereto pursuant to an Assignment and Assumption. Unless the context otherwise requires, the term "Lenders" includes the Issuing Bank.

"***Letter of Credit***" means any letter of credit issued pursuant to this Agreement.

"***Letter of Credit Commitment***" means, with respect to each Issuing Bank, the commitment of such Issuing Bank to issue Letters of Credit hereunder. The initial amount of each Issuing Bank's Letter of Credit Commitment is set forth on Schedule 2.01, or if an Issuing Bank has entered into an Assignment and Assumption, the amount set forth for such Issuing Bank as its Letter of Credit Commitment in the Register maintained by the Administrative Agent.

"***LIBO Screen Rate***" has the meaning assigned to it in the definition of "Eurocurrency Rate."

"***Lien***" means, with respect to any asset, (a) any mortgage, deed of trust, lien, pledge, hypothecation, encumbrance, charge or security interest in, on or of such asset, (b) the interest of a vendor or a lessor under any conditional sale agreement, capital lease or title retention agreement (or any financing lease having substantially the same economic effect as any of the foregoing) relating to such asset and (c) in the case of securities, any purchase option, call or similar right of a third party with respect to such securities.

"***Liquidity***" means, with respect to the Borrower at any date, the sum of unrestricted domestic cash, cash equivalents and other short-term domestic investments of the Borrower and its Subsidiaries on such date, determined in accordance with GAAP.

"***Loan Documents***" means this Agreement, including schedules and exhibits hereto, each Collateral Document, the Loan Guaranty and any promissory notes and any other agreement, instrument, document or certificate entered into in connection herewith by the Borrower or any Loan Party with or in favor of the Administrative Agent and/or the Lenders, including any amendments, modifications or supplements thereto or waivers thereof, legal opinions issued in connection with the other Loan Documents, UCC filings, flood determinations, letter of credit applications and any agreements between the Borrower and the Issuing Bank regarding the Issuing Bank's Letter of Credit Commitment or the respective rights and obligations between the Borrower and the Issuing Bank in connection with the issuance of Letters of Credit and any other documents prepared in connection with the other Loan Documents, if any, and each other written matter

whether heretofore, now or hereafter executed by or on behalf of any Loan Party, or any employee of any Loan Party, and delivered to the Administrative Agent or any Lender in connection with this Agreement or the transactions contemplated hereby. Any reference in this Agreement or any other Loan Document to a Loan Document shall include all appendices, exhibits or schedules thereto, and all amendments, restatements, supplements or other modifications thereto, and shall refer to this Agreement or such Loan Document as the same may be in effect at any and all times such reference becomes operative.

"***Loan Guarantor***" means each Loan Party, other than Excluded Subsidiaries.

"***Loan Guaranty***" means that certain Guaranty (including any and all supplements thereto), dated as of the Original Effective Date, among the Loan Guarantors and the Administrative Agent, for the benefit of the Administrative Agent and the other Secured Parties, and any other guarantee entered into, after the date of this Agreement by any other Loan Party (as required by this Agreement or any other Loan Document) or any other Person for the benefit of the Administrative Agent and the other Secured Parties, as the same may be amended, restated, supplemented or otherwise modified from time to time.

"***Loan Parties***" means the Borrower and each Guarantor.

"***Loans***" means the loans made by the Lenders to the Borrower pursuant to this Agreement.

"***Local Time***" means (i) New York City time in the case of a Loan, Borrowing or LC Disbursement denominated in dollars and (ii) local time in the case of a Loan, Borrowing or LC Disbursement denominated in a Foreign Currency (it being understood that such local time shall mean London, England time unless otherwise notified by the Administrative Agent).

"***Long-Term Debt***" means any Indebtedness that, in accordance with GAAP, constitutes (or, when incurred, constituted) a long-term liability.

"***Material Adverse Effect***" means a material adverse effect on (a) the business, assets, operations, property or financial condition of the Borrower and its Subsidiaries taken as a whole or (b) the validity or enforceability of any of the Loan Documents or the rights and remedies of the Administrative Agent or Lenders thereunder.

"***Material Indebtedness***" means Indebtedness (other than the Loans and Letters of Credit), or obligations in respect of one or more Swap Agreements, of any one or more of the Borrower and its Subsidiaries in an aggregate principal amount exceeding $15,000,000. For purposes of determining Material Indebtedness, the "principal amount" of the obligations of the Borrower or any Subsidiary in respect of any Swap Agreement at any time shall be the maximum aggregate amount (giving effect to any netting agreements) that the Borrower or such Subsidiary would be required to pay if such Swap Agreement were terminated at such time.

"***Maturity Date***" means the earliest to occur of (i) December 19, 2023; (ii) ninety-one (91) days prior to the maturity date of the 2017 Convertible Notes if both (x) the aggregate outstanding principal amount of the 2017 Convertible Notes is greater at such time than EBITDA for the period of four consecutive fiscal quarters ended on or most recently prior to such date and (y) unrestricted domestic cash on hand is less than the aggregate outstanding principal amount of the 2017 Convertible Notes plus $100,000,000; and (iii) ninety-one (91) days prior to the maturity date of the 2018 Convertible Notes if both (x) the aggregate outstanding principal amount of the 2018 Convertible Notes is greater at such time than EBITDA for the period of four consecutive fiscal quarters ended on or most recently prior to such date and (y) unrestricted

domestic cash on hand is less than the aggregate outstanding principal amount of the 2018 Convertible Notes plus $100,000,000.

"***Moody's***" means Moody's Investors Service, Inc.

"***Multiemployer Plan***" means a multiemployer plan as defined in Section 4001(a)(3) of ERISA.

"***Net Income***" means, for any period, the consolidated net income (or loss) determined for the Borrower and its Subsidiaries, on a consolidated basis, in accordance with GAAP; provided that there shall be excluded (a) subject to Section 1.06 hereof, the income (or deficit) of any Person accrued prior to the date it becomes a Subsidiary or is merged into or consolidated with the Borrower or any Subsidiary, (b) the income (or deficit) of any Person (other than a Subsidiary) in which the Borrower or any Subsidiary has an ownership interest, except to the extent that any such income is actually received by the Borrower or such Subsidiary in the form of dividends or similar distributions and (c) the undistributed earnings of any Subsidiary, to the extent that the declaration or payment of dividends or similar distributions by such Subsidiary is not at the time permitted by the terms of any contractual obligation (other than under any Loan Document) or requirement of law applicable to such Subsidiary.

"***Non-Consenting Lender***" has the meaning assigned to such term in Section 9.02(d).

"***NYFRB***" means the Federal Reserve Bank of New York.

"***NYFRB Rate***" means, for any day, the greater of (a) the Federal Funds Effective Rate in effect on such day and (b) the Overnight Bank Funding Rate in effect on such day (or for any day that is not a Business Day, for the immediately preceding Business Day); provided that if none of such rates are published for any day that is a Business Day, the term "NYFRB Rate" means the rate for a federal funds transaction quoted at 11:00 a.m. on such day received to the Administrative Agent from a Federal funds broker of recognized standing selected by it; provided, further, that if any of the aforesaid rates shall be less than zero, such rate shall be deemed to be zero for purposes of this Agreement.

"***Obligation Guaranty***" means any Guarantee of all or any portion of the Secured Obligations executed and delivered to the Administrative Agent for the benefit of the Secured Parties by a guarantor who is not a Loan Party.

"***Obligations***" means all unpaid principal of and accrued and unpaid interest on the Loans, all LC Exposure, all accrued and unpaid fees and all expenses, reimbursements, indemnities and other obligations and indebtedness (including interest and fees accruing during the pendency of any bankruptcy, insolvency, receivership or other similar proceeding, regardless of whether allowed or allowable in such proceeding), obligations and liabilities of any of the Loan Parties to any of the Lenders, the Administrative Agent, the Issuing Bank or any indemnified party, individually or collectively, existing on the Restatement Effective Date or arising thereafter, direct or indirect, joint or several, absolute or contingent, matured or unmatured, liquidated or unliquidated, secured or unsecured, in each case arising by contract, operation of law or otherwise, arising or incurred under this Agreement or any of the other Loan Documents or in respect of any of the Loans made or reimbursement or other obligations incurred or any of the Letters of Credit or other instruments at any time evidencing any thereof.

"***Original Effective Date***" means June 17, 2016.

"***Other Connection Taxes***" means, with respect to any Recipient, Taxes imposed as a result of a present or former connection between such Recipient and the jurisdiction imposing such Tax (other than

connections arising from such Recipient having executed, delivered, become a party to, performed its obligations under, received payments under, received or perfected a security interest under, engaged in any other transaction pursuant to or enforced any Loan Document, or sold or assigned an interest in any Loan, Letter of Credit or Loan Document).

"***Other Taxes***" means all present or future stamp, court or documentary, intangible, recording, filing or similar Taxes that arise from any payment made under, from the execution, delivery, performance, enforcement or registration of, from the receipt or perfection of a security interest under, or otherwise with respect to, any Loan Document, except any such Taxes that are Other Connection Taxes imposed with respect to an assignment (other than an assignment made pursuant to Section 2.19).

"***Overnight Bank Funding Rate***" means, for any day, the rate comprised of both overnight federal funds and overnight Eurodollar borrowings by U.S.-managed banking offices of depository institutions (as such composite rate shall be determined by the NYFRB as set forth on its public website from time to time) and published on the next succeeding Business Day by the NYFRB as an overnight bank funding rate (from and after such date as the NYFRB shall commence to publish such composite rate).

"***Overnight Foreign Currency Rate***" means, for any amount payable in a Foreign Currency, the rate of interest per annum as determined by the Administrative Agent at which overnight or weekend deposits in the relevant currency (or if such amount due remains unpaid for more than three (3) Business Days, then for such other period of time as the Administrative Agent may elect) for delivery in immediately available and freely transferable funds would be offered by the Administrative Agent to major banks in the interbank market upon request of such major banks for the relevant currency as determined above and in an amount comparable to the unpaid principal amount of the related Credit Event, plus any taxes, levies, imposts, duties, deductions, charges or withholdings imposed upon, or charged to, the Administrative Agent by any relevant correspondent bank in respect of such amount in such relevant currency.

"***Participant***" has the meaning assigned to such term in Section 9.04(c).

"***Participant Register***" has the meaning assigned to such term in Section 9.04(c).

"***Patents***" means, with respect to any Person, all of such Person's right, title, and interest in and to: (a) any and all patents and patent applications; (b) all inventions and improvements described and claimed therein; (c) all reissues, divisions, continuations, renewals, extensions, and continuations-in-part thereof; (d) all income, royalties, damages, claims, and payments now or hereafter due or payable under and with respect thereto, including, without limitation, damages and payments for past and future infringements thereof; (e) all rights to sue for past, present, and future infringements thereof; and (f) all rights corresponding to any of the foregoing throughout the world.

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

"***Permitted Encumbrances***" means:

(a) Liens imposed by law for Taxes that are not yet due or are being contested in compliance with Section 5.04;

(b) carriers', warehousemen's, mechanics', materialmen's, repairmen's and other like Liens imposed by law, arising in the ordinary course of business and securing obligations that are not overdue by more than thirty (30) days or are being contested in compliance with Section 5.04;

(c) pledges and deposits made in the ordinary course of business in compliance with workers' compensation, unemployment insurance and other social security laws or regulations;

(d) deposits to secure the performance of bids, trade contracts, leases, statutory obligations, surety and appeal bonds, performance bonds and other obligations of a like nature, in each case in the ordinary course of business, and deposits to secure the performance of appeal bonds (or letters of credit securing such performance) in respect of judgments that do not constitute an Event of Default under clause (k) of Article VII;

(e) judgment liens in respect of judgments that do not constitute an Event of Default under clause (k) of Article VII;

(f) easements, zoning restrictions, rights-of-way and similar encumbrances on real property imposed by law or arising in the ordinary course of business that do not secure any monetary obligations and do not materially detract from the value of the affected property or interfere with the ordinary conduct of business of the Borrower or any Subsidiary;

(g) Liens in favor of a banking or other financial institution arising as a matter of law or in the ordinary course of business under customary general terms and conditions encumbering deposits or other funds maintained with a financial institution (including the right of set-off) and that are within the general parameters customary in the banking industry or arising pursuant to such banking institution's general terms and conditions;

(h) Liens on specific items of inventory or other goods and proceeds thereof of any Person securing such Person's obligations in respect of bankers' acceptances or letters of credit issued or created for the account of such Person to facilitate the purchase, shipment or storage of such inventory or other goods in the ordinary course of business; and

(i) Liens encumbering reasonable customary initial deposits and margin deposits and similar Liens attaching to commodity trading accounts or other brokerage accounts incurred in the ordinary course of business and not for speculative purposes.

"***Permitted Investments***" means:

(a) direct obligations of, or obligations the principal of and interest on which are unconditionally guaranteed by, the United States of America (or by any agency thereof to the extent such obligations are backed by the full faith and credit of the United States of America), in each case maturing within eighteen months from the date of acquisition thereof;

(b) investments in commercial paper maturing within 365 days from the date of acquisition thereof and investments in corporate obligations maturing within eighteen months, having, at such date of acquisition, a minimum S&P rating of A1 or A2 or Moody's rating of P1 or P2;

(c) investments in certificates of deposit, in individual increments of $250,000 or less from any individual commercial bank, banker's acceptances and time deposits maturing within 180 days from the date of acquisition thereof issued or guaranteed by or placed with, and money market deposit accounts issued or offered by, any domestic office of any commercial bank organized under the laws of the United States of America or any State thereof;

(d) fully collateralized repurchase agreements with a term of not more than thirty (30) days for securities described in clause (a) above and entered into with a financial institution satisfying the criteria described in clause (c) above;

(e) money market funds that (i) comply with the criteria set forth in SEC Rule 2a-7 under the Investment Company Act of 1940, (ii) are rated AAA by S&P and Aaa by Moody's and (iii) have portfolio assets of at least $100,000,000;

(f) investments in investment grade corporate bonds existing on the Restatement Effective Date;

(g) local currencies held by any foreign Subsidiary;

(h) investments that are permitted by the Borrower's investment policy as in effect on the date hereof; and

(i) investments of the type described in clauses (a) through (d) and (h) above of foreign Subsidiaries.

"***Person***" means any natural person, corporation, limited liability company, trust, joint venture, association, company, partnership, Governmental Authority or other entity.

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

"***Plan Asset Regulations***" means 29 CFR § 2510.3-101 et seq., as modified by Section 3(42) of ERISA, as amended from time to time.

"***Prime Rate***" means the rate of interest last quoted by The Wall Street Journal as the "Prime Rate" in the U.S. or, if The Wall Street Journal ceases to quote such rate, the highest per annum interest rate published by the Federal Reserve Board in Federal Reserve Statistical Release H.15 (519) (Selected Interest Rates) as the "bank prime loan" rate or, if such rate is no longer quoted therein, any similar rate quoted therein (as determined by the Administrative Agent) or any similar release by the Federal Reserve Board (as determined by the Administrative Agent). Each change in the Prime Rate shall be effective from and including the date such change is publicly announced or quoted as being effective.

"***Projections***" has the meaning assigned to such term in Section 5.01(d).

"***Recipient***" means (a) the Administrative Agent, (b) any Lender and (c) any Issuing Bank, as applicable.

"***Reference Period***" means any period of four consecutive fiscal quarters of the Borrower for which financial statements have been or are required to have been delivered.

"***Register***" has the meaning assigned to such term in Section 9.04(b).

"***Regulation D***" means Regulation D of the Federal Reserve Board, as in effect from time to time and all official rulings and interpretations thereunder or thereof.

"***Regulation T***" means Regulation T of the Federal Reserve Board, as in effect from time to time and all official rulings and interpretations thereunder or thereof.

"***Regulation U***" means Regulation U of the Federal Reserve Board, as in effect from time to time and all official rulings and interpretations thereunder or thereof.

"***Regulation X***" means Regulation X of the Federal Reserve Board, as in effect from time to time and all official rulings and interpretations thereunder or thereof.

"***Related Parties***" means, with respect to any specified Person, such Person's Affiliates and the respective directors, officers, employees, agents and advisors of such Person and such Person's Affiliates.

"***Release***" means any releasing, spilling, leaking, pumping, pouring, emitting, emptying, discharging, injecting, escaping, leaching, migrating, disposing, or dumping of any substance into the environment.

"***Required Lenders***" means, at any time, Lenders having Revolving Credit Exposures and unused Commitments representing greater than 50% of the sum of the total Revolving Credit Exposures and unused Commitments at such time.

"***Requirement of Law***" means, with respect to any Person, (a) the charter, articles or certificate of organization or incorporation and bylaws or operating, management or partnership agreement, or other organizational or governing documents of such Person and (b) any statute, law (including common law), treaty, rule, regulation, code, ordinance, order, decree, writ, judgment, injunction or determination of any arbitrator or court or other Governmental Authority (including Environmental Laws), in each case applicable to or binding upon such Person or any of its property or to which such Person or any of its property is subject.

"***Restatement Effective Date***" means the date on which the conditions specified in Section 4.01 are satisfied (or waived in accordance with Section 9.02).

"***Restricted Payment***" means any dividend or other distribution (whether in cash, securities or other property) with respect to any Equity Interests in the Borrower or any Subsidiary, or any payment (whether in cash, securities or other property), including any sinking fund or similar deposit, on account of the purchase, redemption, retirement, acquisition, cancellation or termination of any such Equity Interests in the Borrower or any option, warrant or other right to acquire any such Equity Interests in the Borrower, but excluding any payment of principal of any of the Convertible Notes, any payment on account of the purchase, redemption, retirement, repayment, acquisition, cancellation or termination of Convertible Notes, and any settlement of the Convertible Notes on the conversion thereof, whether in cash, securities, other property or a combination thereof.

"***Revolving Credit Exposure***" means, with respect to any Lender at any time, the sum of the outstanding principal amount of such Lender's Revolving Loans, its LC Exposure at such time.

"***Revolving Loan***" means a Loan made pursuant to Section 2.03.

"***S&P***" means Standard & Poor's.

"***Sale and Leaseback Transaction***" has the meaning assigned to it in Section 6.09.

"***Sanctioned Country***" means, at any time, a country, region or territory which is itself the subject or target of any Sanctions (at the time of this Agreement, Crimea, Cuba, Iran, North Korea, and Syria).

"***Sanctioned Person***" means, at any time, (a) any Person listed in any Sanctions-related list of designated Persons maintained by the Office of Foreign Assets Control of the U.S. Department of the Treasury, the U.S. Department of State, or by the United Nations Security Council, the European Union, any European Union member state, Her Majesty's Treasury of the United Kingdom, or other relevant sanctions authority, (b) any Person operating, organized or resident in a Sanctioned Country, (c) any Person owned or controlled by any such Person or Persons described in the foregoing clauses (a) or (b), or (d) any Person otherwise the subject of any Sanctions.

"***Sanctions***" means all economic or financial sanctions or trade embargoes imposed, administered or enforced from time to time by (a) the U.S. government, including those administered by the Office of Foreign Assets Control of the U.S. Department of the Treasury or the U.S. Department of State, or (b) the United Nations Security Council, the European Union, any European Union member state, Her Majesty's Treasury of the United Kingdom, or other relevant sanctions authority.

"***SEC***" means the Securities and Exchange Commission of the United State of America.

"***Second Amendment Effective Date***" means November 26, 2018.

"***Secured Obligations***" means all Obligations, together with all (i) Banking Services Obligations and (ii) Swap Agreement Obligations owing to one or more Lenders or their respective Affiliates; provided, however, that the definition of "Secured Obligations" shall not create any guarantee by any Guarantor of (or grant of security interest by any Guarantor to support, as applicable) any Excluded Swap Obligations of such Guarantor for purposes of determining any obligations of any Guarantor.

"***Secured Parties***" means (a) the Lenders, (b) the Administrative Agent, (c) each Issuing Bank, (d) each provider of Banking Services, to the extent the Banking Services Obligations in respect thereof constitute Secured Obligations, (e) each counterparty to any Swap Agreement, to the extent the obligations thereunder constitute Secured Obligations, (f) the beneficiaries of each indemnification obligation undertaken by any Loan Party under any Loan Document and (g) the successors and assigns of each of the foregoing.

"***Security Agreement***" means that certain Pledge and Security Agreement (including any and all supplements thereto), dated as of the Original Effective Date among the Loan Parties and the Administrative Agent, for the benefit of the Administrative Agent and the other Secured Parties, and any other pledge or security agreement entered into, after the date of this Agreement by any other Loan Party (as required by this Agreement or any other Loan Document) or any other Person for the benefit of the Administrative Agent and the other Secured Parties, as the same may be amended, restated, supplemented or otherwise modified from time to time.

"***Senior Secured Leverage Covenant Holiday***" has the meaning assigned to such term in Section 6.13(b).

"***Senior Secured Leverage Ratio***" means, on any date, the ratio of (a) Total Indebtedness which is secured by a Lien of the Borrower and its Subsidiaries on such date *minus* Liquidity in excess of $50,000,000 to (b) EBITDA for the period of four consecutive fiscal quarters ended on or most recently prior to such date.

"***Statutory Reserve Rate***" means a fraction (expressed as a decimal), the numerator of which is the number one and the denominator of which is the number one minus the aggregate of the maximum reserve percentage (including any marginal, special, emergency or supplemental reserves) established by the Federal Reserve Board to which the Administrative Agent is subject with respect to the Adjusted LIBO Rate, for eurocurrency funding (currently referred to as "Eurocurrency liabilities" in Regulation D). Such reserve percentages shall include those imposed pursuant to Regulation D of the Federal Reserve Board. Eurodollar Loans shall be deemed to constitute eurocurrency funding and to be subject to such reserve requirements without benefit of or credit for proration, exemptions or offsets that may be available from time to time to any Lender under Regulation D of the Federal Reserve Board or any comparable regulation. The Statutory Reserve Rate shall be adjusted automatically on and as of the effective date of any change in any reserve percentage.

"***STIBOR Screen Rate***" means, with respect to any Interest Period, the Stockholm interbank offered rate administered by the Swedish Bankers' Association (or any other person that takes over the administration of that rate) for deposits in Swedish Kroner with a term equivalent to such Interest Period as displayed on the Reuters screen page that displays such rate (or, in the event such rate does not appear on such Reuters page, on any successor or substitute page on such screen that displays such rate, or on the appropriate page of such other information service that publishes such rate as shall be selected by the Administrative Agent from time to time in its reasonable discretion) as of 11:00 a.m. London time two business days prior to the commencement of such Interest Period. If the STIBOR Screen Rate shall be less than zero, the STIBOR Screen Rate shall be deemed to be zero for purposes of this Agreement.

"***Subordinated Indebtedness***" of a Person means any Indebtedness of such Person, the payment of which is subordinated to payment of the Secured Obligations to the written satisfaction of the Administrative Agent.

"***subsidiary***" means, with respect to any Person (the "***parent***") at any date, any corporation, limited liability company, partnership, association or other entity the accounts of which would be consolidated with those of the parent in the parent's consolidated financial statements if such financial statements were prepared in accordance with GAAP as of such date, as well as any other corporation, limited liability company, partnership, association or other entity of which securities or other ownership interests representing more than 50% of the equity or more than 50% of the ordinary voting power or, in the case of a partnership, more than 50% of the general partnership interests are, as of such date, owned, controlled or held (excluding in all cases any "qualifying shares").

"***Subsidiary***" means any direct or indirect subsidiary of the Borrower or of any other Loan Party, as applicable.

"***Swap Agreement***" means any agreement with respect to any swap, forward, future or derivative transaction or option or similar agreement involving, or settled by reference to, one or more rates, currencies, commodities, equity or debt instruments or securities, or economic, financial or pricing indices or measures of economic, financial or pricing risk or value or any similar transaction or any combination of these transactions; provided that no phantom stock or similar plan providing for payments only on account of services provided by current or former directors, officers, employees or consultants of the Borrower or the Subsidiaries shall be a Swap Agreement.

"***Swap Agreement Obligations***" means any and all obligations of the Loan Parties and their Subsidiaries, whether absolute or contingent and howsoever and whensoever created, arising, evidenced or acquired (including all renewals, extensions and modifications thereof and substitutions therefor), under (a)

any Swap Agreement permitted hereunder with a Lender or an Affiliate of a Lender, and (b) any cancellations, buy backs, reversals, terminations or assignments of any Swap Agreement transaction permitted hereunder with a Lender or an Affiliate of a Lender.

"***Taxes***" means all present or future taxes, levies, imposts, duties, deductions, withholdings (including backup withholding), value added taxes, or any other goods and services, use or sales taxes, assessments, fees or other charges imposed by any Governmental Authority, including any interest, additions to tax or penalties applicable thereto.

"***Total Indebtedness***" means, at any date, the aggregate principal amount of all Indebtedness of the type specified in clauses (a) through (j) in the definition thereof determined for the Borrower and its Subsidiaries on a consolidated basis at such date, in accordance with GAAP.

"***Total Leverage Ratio***" means, on any date, the ratio of (a) Total Indebtedness, other than earn-out obligations which are not yet due and payable or are being contested in good faith and adequate reserves are maintained with respect thereto to the extent required by GAAP, on such date *minus* Liquidity in excess of $50,000,000 to (b) EBITDA for the period of four consecutive fiscal quarters ended on or most recently prior to such date.

"***Total Revolving Credit Exposure***" means, the sum of the outstanding principal amount of all Lenders' Revolving Loans and their LC Exposure at such time.

"***Trademarks***" means, with respect to any Person, all of such Person's right, title, and interest in and to the following: (a) all trademarks (including service marks), trade names, trade dress, and trade styles and the registrations and applications for registration thereof and the goodwill of the business symbolized by the foregoing; (b) all licenses of the foregoing, whether as licensee or licensor; (c) all renewals of the foregoing; (d) all income, royalties, damages, and payments now or hereafter due or payable with respect thereto, including, without limitation, damages, claims, and payments for past and future infringements thereof; (e) all rights to sue for past, present, and future infringements of the foregoing, including the right to settle suits involving claims and demands for royalties owing; and (f) all rights corresponding to any of the foregoing throughout the world.

"***Transaction Costs***" means all fees, costs and expenses incurred or paid by the Borrower or any Subsidiary in connection with the Transactions, this Agreement and the other Loan Documents and the transactions contemplated hereby and thereby.

"***Transactions***" means the execution, delivery and performance by the Borrower of this Agreement and the other Loan Documents, the borrowing of Loans and other credit extensions, the use of the proceeds thereof and the issuance of Letters of Credit hereunder.

"***Type***", when used in reference to any Loan or Borrowing, refers to whether the rate of interest on such Loan, or on the Loans comprising such Borrowing, is determined by reference to the Adjusted LIBO Rate or the Alternate Base Rate.

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

"***U.S. Tax Compliance Certificate***" has the meaning assigned to such term in Section 2.17(f)(ii)(B)(3).

"***USA Patriot Act***" means the United and Strengthening America by Providing Appropriate Tools Required to Intercept and Obstruct Terrorism Act of 2001.

"***Withdrawal Liability***" means liability to a Multiemployer Plan as a result of a complete or partial withdrawal from such Multiemployer Plan, as such terms are defined in Part I of Subtitle E of Title IV of ERISA.

"***Write-Down and Conversion Powers***" means, with respect to any EEA Resolution Authority, the write-down and conversion powers of such EEA Resolution Authority from time to time under the Bail-In Legislation for the applicable EEA Member Country, which write-down and conversion powers are described in the EU Bail-In Legislation Schedule.

SECTION 1.02. Classification of Loans and Borrowings. For purposes of this Agreement, Loans may be classified and referred to by Class (e.g., a "***Revolving Loan***") or by Type (e.g., a "***Eurodollar Loan***") or by Class and Type (e.g., a "***Eurodollar Revolving Loan***"). Borrowings also may be classified and referred to by Class (e.g., a "***Revolving Borrowing***") or by Type (e.g., a "***Eurodollar Borrowing***") or by Class and Type (e.g., a "***Eurodollar Revolving Borrowing***").

SECTION 1.03. Terms Generally. The definitions of terms herein shall apply equally to the singular and plural forms of the terms defined. Whenever the context may require, any pronoun shall include the corresponding masculine, feminine and neuter forms. The words "include", "includes" and "including" shall be deemed to be followed by the phrase "without limitation". The word "law" shall be construed as referring to all statutes, rules, regulations, codes and other laws (including official rulings and interpretations thereunder having the force of law or with which affected Persons customarily comply) and all judgments, orders and decrees of all Governmental Authorities. The word "will" shall be construed to have the same meaning and effect as the word "shall". Unless the context requires otherwise (a) any definition of or reference to any agreement, instrument or other document herein shall be construed as referring to such agreement, instrument or other document as from time to time amended, restated, supplemented or otherwise modified (subject to any restrictions on such amendments, restatements, supplements or modifications set forth herein), (b) any reference herein to any Person shall be construed to include such Person's successors and assigns (subject to any restrictions on assignments set forth herein) and, in the case of any Governmental Authority, any other Governmental Authority that shall have succeeded to any or all functions thereof, (c) the words "herein", "hereof" and "hereunder", and words of similar import, shall be construed to refer to this Agreement in its entirety and not to any particular provision hereof, (d) all references herein to Articles, Sections, Exhibits and Schedules shall be construed to refer to Articles and Sections of, and Exhibits and Schedules to, this Agreement, (e) the words "asset" and "property" shall be construed to have the same meaning and effect and to refer to any and all tangible and intangible assets and properties, including cash, securities, accounts and contract rights, (f) any reference in any definition to the phrase "at any time" or "for any period" shall refer to the same time or period for all calculations or determinations within such definition, and (g) any reference to any law, rule or regulations shall mean such law, rule or regulation as amended or restated from time to time.

SECTION 1.04. Accounting Terms; GAAP.

(a) Except as otherwise expressly provided herein, all terms of an accounting or financial nature shall be construed in accordance with GAAP, as in effect from time to time; provided that, if after the date hereof there occurs any change in GAAP or in the application thereof on the operation of any provision hereof and the Borrower notifies the Administrative Agent that the Borrower requests an amendment to any provision hereof to eliminate the effect of any change occurring after the date hereof in GAAP or in the

application thereof on the operation of such provision (or if the Administrative Agent notifies the Borrower that the Required Lenders request an amendment to any provision hereof for such purpose), regardless of whether any such notice is given before or after such change in GAAP or in the application thereof, then such provision shall be interpreted on the basis of GAAP as in effect and applied immediately before such change shall have become effective until such notice shall have been withdrawn or such provision amended in accordance herewith. Notwithstanding any other provision contained herein, the effectiveness of any change in GAAP after the Restatement Effective Date will not cause any lease that was not or would not have been a capital lease prior to such change to be deemed a capital lease. Notwithstanding any other provision contained herein, all terms of an accounting or financial nature used herein shall be construed, and all computations of amounts and ratios referred to herein shall be made (i) without giving effect to any election under Financial Accounting Standards Board Accounting Standards Codification 825 (or any other Financial Accounting Standard having a similar result or effect) to value any Indebtedness or other liabilities of the Borrower or any Subsidiary at "fair value", as defined therein and (ii) without giving effect to any treatment of Indebtedness in respect of convertible debt instruments under Financial Accounting Standards Board Accounting Standards Codification 470-20 (or any other Accounting Standards Codification or Financial Accounting Standard having a similar result or effect) to value any such Indebtedness in a reduced or bifurcated manner as described therein, and such Indebtedness shall at all times be valued at the full stated principal amount thereof.

(b) Notwithstanding anything to the contrary contained in Section 1.04(a) or in the definition of "Capital Lease Obligations," in the event of an accounting change requiring leases that were not required to be capitalized on the date hereof to be capitalized, only those leases (assuming for purposes hereof that such leases were in existence on the date hereof) that would constitute capital leases in conformity with GAAP on the date hereof shall be considered capital leases, and all calculations and deliverables under this Agreement or any other Loan Document shall be made or delivered, as applicable, in accordance therewith.

SECTION 1.05. Interests Rates; LIBOR Notification. The interest rate on Eurodollar Loans is determined by reference to the LIBO Rate, which is derived from the London interbank offered rate. The London interbank offered rate is intended to represent the rate at which contributing banks may obtain short-term borrowings from each other in the London interbank market. In July 2017, the U.K. Financial Conduct Authority announced that, after the end of 2021, it would no longer persuade or compel contributing banks to make rate submissions to the ICE Benchmark Administration (together with any successor to the ICE Benchmark Administrator, the "IBA") for purposes of the IBA setting the London interbank offered rate. As a result, it is possible that commencing in 2022, the London interbank offered rate may no longer be available or may no longer be deemed an appropriate reference rate upon which to determine the interest rate on Eurodollar Loans. In light of this eventuality, public and private sector industry initiatives are currently underway to identify new or alternative reference rates to be used in place of the London interbank offered rate. In the event that the London interbank offered rate is no longer available or in certain other circumstances as set forth in Section 2.14 of this Agreement, such Section 2.14 provides a mechanism for determining an alternative rate of interest. The Administrative Agent will notify the Borrower, pursuant to Section 2.14, in advance of any change to the reference rate upon which the interest rate on Eurodollar Loans is based. However, the Administrative Agent does not warrant or accept any responsibility for, and shall not have any liability with respect to, the administration, submission or any other matter related to the London interbank offered rate or other rates in the definition of "LIBO Rate" or with respect to any alternative or successor rate thereto, or replacement rate thereof, including without limitation, whether the composition or characteristics of any such alternative, successor or replacement reference rate, as it may or may not be adjusted pursuant to Section 2.14(c), will be similar to, or produce the same value or economic equivalence of, the LIBO Rate or have the same volume or liquidity as did the London interbank offered rate prior to its discontinuance or unavailability.

SECTION 1.06. Pro Forma Adjustments for Acquisitions and Dispositions. To the extent the Borrower or any of its Subsidiaries makes any acquisition permitted pursuant to Section 6.04 or disposition of assets outside the ordinary course of business during the period of four fiscal quarters of the Borrower most recently ended for which financial statements have been delivered, the Senior Secured Leverage Ratio and Total Leverage Ratio shall be calculated after giving pro forma effect thereto (including pro forma adjustments arising out of events which are directly attributable to the acquisition or the disposition of assets, are factually supportable and are expected to have a continuing impact, in each case as determined on a basis consistent with Article 11 of Regulation S-X of the Securities Act of 1933, as amended, as interpreted by the SEC, and as certified by a Financial Officer), as if such acquisition or such disposition (and any related incurrence, repayment or assumption of Indebtedness) had occurred in the first day of such four-quarter period.

SECTION 1.07. Status of Obligations. In the event that the Borrower or any other Loan Party shall at any time issue or have outstanding any Subordinated Indebtedness, the Borrower shall take or cause such other Loan Party to take all such actions as shall be necessary to cause the Secured Obligations to constitute senior indebtedness (however denominated) in respect of such Subordinated Indebtedness and to enable the Administrative Agent and the Lenders to have and exercise any payment blockage or other remedies available or potentially available to holders of senior indebtedness under the terms of such Subordinated Indebtedness. Without limiting the foregoing, the Secured Obligations are hereby designated as "senior indebtedness" and as "designated senior indebtedness" and words of similar import under and in respect of any indenture or other agreement or instrument under which such Subordinated Indebtedness is outstanding and are further given all such other designations as shall be required under the terms of any such Subordinated Indebtedness in order that the Lenders may have and exercise any payment blockage or other remedies available or potentially available to holders of senior indebtedness under the terms of such Subordinated Indebtedness.

ARTICLE II
The Credits

SECTION 2.01. Commitments. Subject to the terms and conditions set forth herein, each Lender agrees to make Revolving Loans to the Borrower in the Applicable Currency from time to time during the Availability Period in an aggregate principal amount that will not result (after giving effect to any application of proceeds of such Borrowing pursuant to Section 2.10) in (a) the Dollar Equivalent of any Lender's Revolving Credit Exposure exceeding such Lender's Commitment, (b) the sum of the Dollar Equivalent of the Total Revolving Credit Exposures exceeding the total Commitments or (c) the Dollar Equivalent of the total outstanding Revolving Loans denominated in Foreign Currencies to exceed the Foreign Currency Sublimit. Within the foregoing limits and subject to the terms and conditions set forth herein, the Borrower may borrow, prepay and reborrow Revolving Loans.

SECTION 2.02. Loans and Borrowings. (23) Each Revolving Loan shall be made as part of a Borrowing consisting of Revolving Loans made by the Lenders ratably in accordance with their respective Commitments. The failure of any Lender to make any Loan required to be made by it shall not relieve any other Lender of its obligations hereunder; provided that the Commitments of the Lenders are several and no Lender shall be responsible for any other Lender's failure to make Loans as required.

(a) Subject to Section 2.14, each Revolving Borrowing shall be comprised entirely of ABR Loans or Eurodollar Loans as the Borrower may request in accordance herewith. Each Lender at its option may make any Eurodollar Loan by causing any domestic or foreign branch or Affiliate of such Lender

to make such Loan; provided that any exercise of such option shall not affect the obligation of the Borrower to repay such Loan in accordance with the terms of this Agreement.

(b) At the commencement of each Interest Period for any Eurodollar Revolving Borrowing, such Borrowing shall be in an aggregate Dollar Equivalent that is an integral multiple of $1,000,000 and not less than $5,000,000. At the time that each ABR Revolving Borrowing is made, such Borrowing shall be in an aggregate Dollar Equivalent that is an integral multiple of $100,000 and not less than $500,000; provided that an ABR Revolving Borrowing may be in an aggregate Dollar Equivalent that is equal to the entire unused balance of the total Commitments or that is required to finance the reimbursement of an LC Disbursement as contemplated by Section 2.06(e). Borrowings of more than one Type and Class may be outstanding at the same time; provided that there shall not at any time be more than a total of 10 Eurodollar Revolving Borrowings outstanding.

(c) Notwithstanding any other provision of this Agreement, the Borrower shall not be entitled to request, or to elect to convert or continue, any Borrowing if the Interest Period requested with respect thereto would end after the Maturity Date.

SECTION 2.03. Requests for Revolving Borrowings. To request a Revolving Borrowing, the Borrower shall notify the Administrative Agent of such request by telephone (a) in the case of a Eurodollar Borrowing denominated in dollars, not later than 1:00 p.m., New York City time, three (3) Business Days before the date of the proposed Borrowing, (b) in the case of a Eurodollar Borrowing denominated in a Foreign Currency, not later than 12:00 p.m., Local Time, three (3) Business Days before the date of the proposed Borrowing or (c) in the case of an ABR Borrowing, not later than 11:00 a.m., New York City time, on the date of the proposed Borrowing; provided that any such notice of an ABR Revolving Borrowing to finance the reimbursement of an LC Disbursement as contemplated by Section 2.06(e) may be given not later than 1:00 p.m., New York City time, on the date of the proposed Borrowing. Each such telephonic Borrowing Request shall be irrevocable and shall be confirmed promptly by hand delivery or telecopy (or transmit by electronic communication in accordance with Section 9.01 hereof) to the Administrative Agent of a written Borrowing Request in a form approved by the Administrative Agent and signed by the Borrower. Each such telephonic and written Borrowing Request shall specify the following information in compliance with Section 2.02:

(i) the aggregate amount of the requested Borrowing;

(ii) the date of such Borrowing, which shall be a Business Day;

(iii) whether such Borrowing is to be an ABR Borrowing or a Eurodollar Borrowing;

(iv) in the case of a Eurodollar Borrowing, the Applicable Currency and initial Interest Period to be applicable thereto, which shall be a period contemplated by the definition of the term “Interest Period”; and

(v) the location and number of the Borrower’s account to which funds are to be disbursed, which shall comply with the requirements of Section 2.07.

If no election as to the Type of Revolving Borrowing is specified, then the requested Revolving Borrowing shall be an ABR Borrowing. If no Interest Period is specified with respect to any requested Eurodollar Revolving Borrowing, then the Borrower shall be deemed to have selected an Interest Period of one month’s duration. Promptly following receipt of a Borrowing Request in accordance with this Section, the

Administrative Agent shall advise each Lender of the details thereof and of the amount of such Lender's Loan to be made as part of the requested Borrowing.

SECTION 2.04. Determination of Dollar Equivalent. The Administrative Agent will determine the Dollar Equivalent of:

(a) each Eurodollar Borrowing as of the date two (2) Business Days prior to the date of such Borrowing or, if applicable, the date of conversion/continuation of any Borrowing as a Eurodollar Borrowing;

(b) the LC Exposure as of the date of each request for the issuance, amendment, renewal or extension of any Letter of Credit; and

(c) the aggregate amount of all Loans and LC Exposure on and as of the last Business Day of each calendar quarter and, during the continuation of an Event of Default, on any other Business Day elected by the Administrative Agent in its discretion or upon instruction by the Required Lenders.

Each day upon or as of which the Administrative Agent determines the Dollar Equivalent as described in the preceding clauses (a), (b) and (c) is herein described as a "***Computation Date***" with respect to each Credit Event for which a Dollar Equivalent is determined on or as of such day.

SECTION 2.05. [Intentionally Omitted].

SECTION 2.06. Letters of Credit. (23) General. Subject to the terms and conditions set forth herein, the Borrower may request the issuance of Letters of Credit denominated in Applicable Currencies as the applicant thereof for the support of its or its Subsidiaries' obligations, in a form reasonably acceptable to the Issuing Bank, at any time and from time to time during the Availability Period and the Issuing Bank shall, subject to the conditions precedent set forth in Section 4.02, issue such requested Letters of Credit pursuant to this Agreement. In the event of any inconsistency between the terms and conditions of this Agreement and the terms and conditions of any form of letter of credit application or other agreement submitted by the Borrower to, or entered into by the Borrower with, the Issuing Bank relating to any Letter of Credit, the terms and conditions of this Agreement shall control. Notwithstanding anything herein to the contrary, the Issuing Bank shall have no obligation hereunder to issue, and shall not issue, any Letter of Credit (i) the proceeds of which would be made available to any Person (A) to fund any activity or business of or with any Sanctioned Person, or in any country or territory that, at the time of such funding, is the subject of any Sanctions or (B) in any manner that would result in a violation of any Sanctions by any party to this Agreement, (ii) if any order, judgment or decree of any Governmental Authority or arbitrator shall by its terms purport to enjoin or restrain the Issuing Bank from issuing such Letter of Credit, or any Requirement of Law relating to the Issuing Bank or any request or directive (whether or not having the force of law) from any Governmental Authority with jurisdiction over the Issuing Bank shall prohibit, or request that the Issuing Bank refrain from, the issuance of letters of credit generally or such Letter of Credit in particular or shall impose upon the Issuing Bank with respect to such Letter of Credit any restriction, reserve or capital requirement (for which the Issuing Bank is not otherwise compensated hereunder) not in effect on the Restatement Effective Date, or shall impose upon the Issuing Bank any unreimbursed loss, cost or expense which was not applicable on the Restatement Effective Date and which the Issuing Bank in good faith deems material to it, or (iii) if the issuance of such Letter of Credit would violate one or more policies of the Issuing Bank applicable to letters of credit generally; provided that, notwithstanding anything herein to the contrary, (x) the Dodd-Frank Wall Street Reform and Consumer Protection Act and all requests, rules, guidelines, requirements or directives thereunder or issued in connection therewith or in the implementation thereof, and (y) all requests, rules, guidelines, requirements or directives promulgated by the Bank for International Settlements, the Basel Committee on Banking Supervision (or any successor or similar authority) or the

United States or foreign regulatory authorities, in each case pursuant to Basel III, shall in each case be deemed not to be in effect on the Restatement Effective Date for purposes of clause (ii) above, regardless of the date enacted, adopted, issued or implemented.

(a) Notice of Issuance, Amendment, Renewal, Extension; Certain Conditions. To request the issuance of a Letter of Credit (or the amendment, renewal or extension of an outstanding Letter of Credit), the Borrower shall hand deliver or telecopy (or transmit through Electronic System, if arrangements for doing so have been approved by the Issuing Bank) to the Issuing Bank and the Administrative Agent (reasonably in advance of the requested date of issuance, amendment, renewal or extension, but in any event no less than three (3) Business Days, or with respect to Letters of Credit to be issued in Swedish Kroner, such longer period as required by the Issuing Bank from time to time) a notice requesting the issuance of a Letter of Credit, or identifying the Letter of Credit to be amended, renewed or extended, and specifying the date of issuance, amendment, renewal or extension (which shall be a Business Day), the date on which such Letter of Credit is to expire (which shall comply with paragraph (c) of this Section), the amount of such Letter of Credit, the Applicable Currency, the name and address of the beneficiary thereof and such other information as shall be necessary to prepare, amend, renew or extend such Letter of Credit. If requested by the Issuing Bank, the Borrower also shall submit a letter of credit application on the Issuing Bank's standard form in connection with any request for a Letter of Credit. A Letter of Credit shall be issued, amended, renewed or extended only if (and upon issuance, amendment, renewal or extension of each Letter of Credit the Borrower shall be deemed to represent and warrant that), after giving effect to such issuance, amendment, renewal or extension (i) (x) the aggregate undrawn Dollar Equivalent of all outstanding Letters of Credit issued by the Issuing Bank at such time plus (y) the aggregate Dollar Equivalent of all LC Disbursements made the Issuing Bank that have not yet been reimbursed by or on behalf of the Borrower at such time shall not exceed its Letter of Credit Commitment, (ii) the Dollar Equivalent of any Lender's Revolving Credit Exposure shall not exceed its Commitment and (iii) the sum of the Dollar Equivalent of the Total Revolving Credit Exposure shall not exceed the total Commitments. The Borrower may, at any time and from time to time, reduce the Letter of Credit Commitment of any Issuing Bank; provided that the Borrower shall not reduce the Letter of Credit Commitment of any Issuing Bank if, after giving effect of such reduction, the conditions set forth in clauses (i) through (iii) above shall not be satisfied.

(b) Expiration Date. Each Letter of Credit shall expire (or be subject to termination by notice from the Issuing Bank to the beneficiary thereof) at or prior to the close of business on the earlier of (i) the date one year after the date of the issuance of such Letter of Credit (or, in the case of any renewal or extension thereof, one year after such renewal or extension) and (ii) the date that is five (5) Business Days prior to the Maturity Date. Notwithstanding the foregoing, any Letter of Credit may, at the discretion of the Issuing Bank, expire no later than one year after the Maturity Date so long as the Borrower cash collateralizes an amount equal to 105% of the face amount of such Letter of Credit at least ten (10) Business Days prior to the Maturity Date in the manner described in Section 2.06(j) and otherwise on terms and conditions reasonably acceptable to the Issuing Bank and the Administrative Agent.

(c) Participations. By the issuance of a Letter of Credit (or an amendment to a Letter of Credit increasing the amount thereof) and without any further action on the part of the Issuing Bank or the Lenders, the Issuing Bank hereby grants to each Lender, and each Lender hereby acquires from the Issuing Bank, a participation in such Letter of Credit equal to such Lender's Applicable Percentage of the aggregate amount available to be drawn under such Letter of Credit. In consideration and in furtherance of the foregoing, each Lender hereby absolutely and unconditionally agrees to pay to the Administrative Agent, for the account of the Issuing Bank, such Lender's Applicable Percentage of each LC Disbursement made by the Issuing Bank and not reimbursed by the Borrower on the date due as provided in paragraph (e) of this Section, or of any reimbursement payment required to be refunded to the Borrower for any reason. Each Lender acknowledges

and agrees that its obligation to acquire participations pursuant to this paragraph in respect of Letters of Credit is absolute and unconditional and shall not be affected by any circumstance whatsoever, including any amendment, renewal or extension of any Letter of Credit or the occurrence and continuance of a Default or reduction or termination of the Commitments, and that each such payment shall be made without any offset, abatement, withholding or reduction whatsoever.

(d) Reimbursement. If the Issuing Bank shall make any LC Disbursement in respect of a Letter of Credit, the Borrower shall reimburse such LC Disbursement by paying to the Administrative Agent in dollars the Dollar Equivalent equal to such LC Disbursement, calculated as of the date the Issuing Bank made such LC Disbursement (or if the Issuing Bank shall so elect in its sole discretion by notice to the Borrower (given at the time such LC Disbursement is made), in such other Applicable Currency which was paid by the Issuing Bank pursuant to such LC Disbursement in an amount equal to such LC Disbursement) not later than 12:00 noon, New York City time, on the date that such LC Disbursement is made, if the Borrower shall have received notice of such LC Disbursement prior to 10:00 a.m., New York City time, on such date, or, if such notice has not been received by the Borrower prior to such time on such date, then not later than 12:00 noon, New York City time, on the Business Day immediately following the day that the Borrower receives such notice; provided that the Borrower may, subject to the conditions to borrowing set forth herein, request in accordance with Section 2.03 that such payment be financed with (i) to the extent such LC Disbursement was made in dollars, an ABR Revolving Borrowing in an amount equal to such LC Disbursement or (ii) to the extent that such LC Disbursement was made in a Foreign Currency, a Eurodollar Revolving Borrowing in such Foreign Currency in an amount equal to such LC Disbursement and, in each case, to the extent so financed, the Borrower's obligation to make such payment shall be discharged and replaced by the resulting ABR Revolving Borrowing or Eurodollar Revolving Borrowing, as applicable. If the Borrower fails to make such payment when due, the Administrative Agent shall notify each Lender of the applicable LC Disbursement, the payment then due from the Borrower in respect thereof and such Lender's Applicable Percentage thereof. Promptly following receipt of such notice, each Lender shall pay to the Administrative Agent its Applicable Percentage of the payment then due from the Borrower, in the same manner as provided in Section 2.07 with respect to Loans made by such Lender (and Section 2.07 shall apply, *mutatis mutandis*, to the payment obligations of the Lenders), and the Administrative Agent shall promptly pay to the Issuing Bank the amounts so received by it from the Lenders. Promptly following receipt by the Administrative Agent of any payment from the Borrower pursuant to this paragraph, the Administrative Agent shall distribute such payment to the Issuing Bank or, to the extent that Lenders have made payments pursuant to this paragraph to reimburse the Issuing Bank, then to such Lenders and the Issuing Bank as their interests may appear. Any payment made by a Lender pursuant to this paragraph to reimburse the Issuing Bank for any LC Disbursement (other than the funding of ABR Revolving Loans as contemplated above) shall not constitute a Loan and shall not relieve the Borrower of its obligation to reimburse such LC Disbursement. If the Borrower's reimbursement of, or obligation to reimburse, any amounts in any Foreign Currency would subject the Administrative Agent, the Issuing Bank or any Lender to any stamp duty, ad valorem charge or similar tax that would not be payable if such reimbursement were made or required to be made in dollars, the Borrower shall, at its option, either (x) pay the amount of any such tax requested by the Administrative Agent, the Issuing Bank or the relevant Lender or (y) reimburse each LC Disbursement made in such Foreign Currency in dollars, in an amount equal to the Equivalent Amount, calculated using the applicable Exchange Rates, on the date such LC Disbursement is made, of such LC Disbursement.

(e) Obligations Absolute. The Borrower's obligation to reimburse LC Disbursements as provided in paragraph (e) of this Section shall be absolute, unconditional and irrevocable, and shall, subject to the limitations set forth in the immediately following sentence, be performed strictly in accordance with the terms of this Agreement under any and all circumstances whatsoever and irrespective of (i) any lack of validity or enforceability of any Letter of Credit or this Agreement, or any term or provision therein, (ii) any

draft or other document presented under a Letter of Credit proving to be forged, fraudulent or invalid in any respect or any statement therein being untrue or inaccurate in any respect, (iii) payment by the Issuing Bank under a Letter of Credit against presentation of a draft or other document that does not comply with the terms of such Letter of Credit, or (iv) any other event or circumstance whatsoever, whether or not similar to any of the foregoing, that might, but for the provisions of this Section, constitute a legal or equitable discharge of, or provide a right of setoff against, the Borrower's obligations hereunder. Neither the Administrative Agent, the Lenders nor the Issuing Bank, nor any of their Related Parties, shall have any liability or responsibility by reason of or in connection with the issuance or transfer of any Letter of Credit or any payment or failure to make any payment thereunder (irrespective of any of the circumstances referred to in the preceding sentence), or any error, omission, interruption, loss or delay in transmission or delivery of any draft, notice or other communication under or relating to any Letter of Credit (including any document required to make a drawing thereunder), any error in interpretation of technical terms or any consequence arising from causes beyond the control of the Issuing Bank; provided that the foregoing shall not be construed to excuse the Issuing Bank from liability to the Borrower to the extent of any direct damages (as opposed to special, indirect, consequential or punitive damages, claims in respect of which are hereby waived by the Borrower to the extent permitted by applicable law) suffered by the Borrower that are caused by the Issuing Bank's failure to exercise care when determining whether drafts and other documents presented under a Letter of Credit comply with the terms thereof. The parties hereto expressly agree that, in the absence of gross negligence or wilful misconduct on the part of the Issuing Bank (as finally determined by a court of competent jurisdiction), the Issuing Bank shall be deemed to have exercised care in each such determination. In furtherance of the foregoing and without limiting the generality thereof, the parties agree that, with respect to documents presented which appear on their face to be in substantial compliance with the terms of a Letter of Credit, the Issuing Bank may, in its sole discretion, either accept and make payment upon such documents without responsibility for further investigation, regardless of any notice or information to the contrary, or refuse to accept and make payment upon such documents if such documents are not in strict compliance with the terms of such Letter of Credit.

(f) Disbursement Procedures. The Issuing Bank shall, promptly following its receipt thereof, examine all documents purporting to represent a demand for payment under a Letter of Credit. The Issuing Bank shall promptly notify the Administrative Agent and the Borrower by telephone (confirmed by telecopy or through Electronic Systems) of such demand for payment and whether the Issuing Bank has made or will make an LC Disbursement thereunder; provided that any failure to give or delay in giving such notice shall not relieve the Borrower of its obligation to reimburse the Issuing Bank and the Lenders with respect to any such LC Disbursement.

(g) Interim Interest. If the Issuing Bank shall make any LC Disbursement, then, unless the Borrower shall reimburse such LC Disbursement in full on the date such LC Disbursement is made, the unpaid amount thereof shall bear interest, for each day from and including the date such LC Disbursement is made to but excluding the date that the reimbursement is due and payable at the rate *per annum* then applicable to ABR Revolving Loans (or in the case such LC Disbursement is denominated in a Foreign Currency, at the Overnight Foreign Currency Rate for such Applicable Currency plus the then effective Applicable Rate with respect to Eurodollar Revolving Loans) and such interest shall be due and payable on the date when such reimbursement is payable; provided that, if the Borrower fails to reimburse such LC Disbursement when due pursuant to paragraph (e) of this Section, then Section 2.13(d) shall apply. Interest accrued pursuant to this paragraph shall be for the account of the Issuing Bank, except that interest accrued on and after the date of payment by any Lender pursuant to paragraph (e) of this Section to reimburse the Issuing Bank shall be for the account of such Lender to the extent of such payment.

(h) Replacement of the Issuing Bank. (23) The Issuing Bank may be replaced at any time by written agreement among the Borrower, the Administrative Agent, the replaced Issuing Bank and the successor Issuing Bank. The Administrative Agent shall notify the Lenders of any such replacement of the Issuing Bank. At the time any such replacement shall become effective, the Borrower shall pay all unpaid fees accrued for the account of the replaced Issuing Bank pursuant to Section 2.12(b). From and after the effective date of any such replacement, (x) the successor Issuing Bank shall have all the rights and obligations of the Issuing Bank under this Agreement with respect to Letters of Credit to be issued thereafter and (y) references herein to the term "Issuing Bank" shall be deemed to refer to such successor or to any previous Issuing Bank, or to such successor and all previous Issuing Banks, as the context shall require. After the replacement of an Issuing Bank hereunder, the replaced Issuing Bank shall remain a party hereto and shall continue to have all the rights and obligations of an Issuing Bank under this Agreement with respect to Letters of Credit issued by it prior to such replacement, but shall not be required to issue additional Letters of Credit.

(i) Subject to the appointment and acceptance of a successor Issuing Bank, any Issuing Bank may resign as an Issuing Bank at any time upon thirty (30) days' prior written notice to the Administrative Agent, the Borrower and the Lenders, in which case, such Issuing Bank shall be replaced in accordance with Section 2.06(i) above.

(i) Cash Collateralization. If any Event of Default shall occur and be continuing, on the Business Day that the Borrower receives notice from the Administrative Agent or the Required Lenders (or, if the maturity of the Loans has been accelerated, Lenders with LC Exposure representing not less than 51% of the total LC Exposure) demanding the deposit of cash collateral pursuant to this paragraph, the Borrower shall deposit in an account with the Administrative Agent, in the name of the Administrative Agent and for the benefit of the Lenders, an amount in cash equal to 105% of the Dollar Equivalent of the LC Exposure as of such date plus any accrued and unpaid interest thereon; provided that (i) the portions of such amount attributable to undrawn Foreign Currency Letters of Credit or LC Disbursements in a Foreign Currency that the Borrower is not late in reimbursing shall be deposited in the applicable Foreign Currencies in the actual amounts of such undrawn Letters of Credit and LC Disbursements and (ii) the obligation to deposit such cash collateral shall become effective immediately, and such deposit shall become immediately due and payable, without demand or other notice of any kind, upon the occurrence of any Event of Default with respect to the Borrower described in clause (h) or (i) of Article VII. For the purposes of this paragraph, the Foreign Currency LC Exposure shall be calculated using the applicable Exchange Rate on the date notice demanding cash collateralization is delivered to the Borrower. The Borrower also shall deposit cash collateral pursuant to this paragraph as and to the extent required by Section 2.11(c). Such deposit shall be held by the Administrative Agent as collateral for the payment of the LC Exposure under this Agreement. The Administrative Agent shall have exclusive dominion and control, including the exclusive right of withdrawal, over such account. Other than any interest earned on the investment of such deposits, which investments shall be made at the option and sole discretion of the Administrative Agent and at the Borrower's risk and expense, such deposits shall not bear interest. Interest or profits, if any, on such investments shall accumulate in such account. Moneys in such account shall be applied by the Administrative Agent to reimburse the Issuing Bank for LC Disbursements for which it has not been reimbursed and, to the extent not so applied, shall be held for the satisfaction of the reimbursement obligations of the Borrower for the LC Exposure at such time or, if the maturity of the Loans has been accelerated (but subject to the consent of Lenders with LC Exposure representing not less than 51% of the total LC Exposure), be applied to satisfy other obligations of the Borrower under this Agreement. If the Borrower is required to provide an amount of cash collateral hereunder as a result of the occurrence of an Event of Default, such amount (to the extent not applied as aforesaid) shall be returned to the Borrower within three (3) Business Days after all Events of Default have been cured or waived.

SECTION 2.07. Funding of Borrowings. (23) Each Lender shall make each Loan to be made by it hereunder on the proposed date thereof solely by wire transfer of immediately available funds (i) in the case of Loans denominated in dollars, by 12:00 noon, New York City time, to the account of the Administrative Agent most recently designated by it for such purpose by notice to the Lenders and (ii) in the case of each Loan denominated in a Foreign Currency, by 12:00 noon, Local Time, in the city of the Administrative Agent's Applicable Payment Office for such currency and at such Applicable Payment Office for such currency. Except in respect of the provisions of this Agreement covering the reimbursement of Letters of Credit, the Administrative Agent will make such Loans available to the Borrower by promptly crediting the funds so received, in like funds, to (x) an account of the Borrower designated by the Borrower in the applicable Borrowing Request, in the case of Loans denominated in dollars made to the Borrower and (y) an account of the Borrower in the relevant jurisdiction and designated by the Borrower in the applicable Borrowing Request, in the case of Loans denominated in a Foreign Currency; provided that ABR Revolving Loans made to finance the reimbursement of an LC Disbursement as provided in Section 2.06(e) shall be remitted by the Administrative Agent to the Issuing Bank.

(a) Unless the Administrative Agent shall have received notice from a Lender prior to the proposed date of any Borrowing that such Lender will not make available to the Administrative Agent such Lender's share of such Borrowing, the Administrative Agent may assume that such Lender has made such share available on such date in accordance with paragraph (a) of this Section and may, in reliance upon such assumption, make available to the Borrower a corresponding amount. In such event, if a Lender has not in fact made its share of the applicable Borrowing available to the Administrative Agent, then the applicable Lender and the Borrower severally agree to pay to the Administrative Agent forthwith on demand such corresponding amount with interest thereon, for each day from and including the date such amount is made available to the Borrower to but excluding the date of payment to the Administrative Agent, at (i) in the case of such Lender, the greater of the Federal Funds Effective Rate and a rate determined by the Administrative Agent in accordance with banking industry rules on interbank compensation (including without limitation the Overnight Foreign Currency Rate in the case of Loans denominated in a Foreign Currency) or (ii) in the case of the Borrower, the interest rate applicable to ABR Loans. If such Lender pays such amount to the Administrative Agent, then such amount shall constitute such Lender's Loan included in such Borrowing.

SECTION 2.08. Interest Elections. (23) Each Revolving Borrowing initially shall be of the Type specified in the applicable Borrowing Request and, in the case of a Eurodollar Revolving Borrowing, shall have an initial Interest Period as specified in such Borrowing Request. Thereafter, the Borrower may elect to convert such Borrowing to a different Type or to continue such Borrowing and, in the case of a Eurodollar Revolving Borrowing, may elect Interest Periods therefor, all as provided in this Section. The Borrower may elect different options with respect to different portions of the affected Borrowing, in which case each such portion shall be allocated ratably among the Lenders holding the Loans comprising such Borrowing, and the Loans comprising each such portion shall be considered a separate Borrowing. Notwithstanding anything in this Agreement to the contrary, the Borrower may not request that any Eurodollar Revolving Borrowing denominated in a Foreign Currency be converted into a different Type of Borrowing or Loan.

(a) To make an election pursuant to this Section, the Borrower shall notify the Administrative Agent of such election by telephone by the time that a Borrowing Request would be required under Section 2.03 if the Borrower were requesting a Revolving Borrowing of the Type resulting from such election to be made on the effective date of such election. Each such telephonic Interest Election Request shall be irrevocable and shall be confirmed promptly by hand delivery or telecopy (or transmit by electronic communication in accordance with Section 9.01 hereof) to the Administrative Agent of a written Interest Election Request in a form approved by the Administrative Agent and signed by the Borrower; provided, that any interest received from the Borrower by the Administrative Agent during the period beginning when

the Administrative Agent funded the Borrowing until such Lender pays such amount shall be solely for the account of the Administrative Agent.

(b) Each telephonic and written Interest Election Request shall specify the following information in compliance with Section 2.02:

(i) the Borrowing to which such Interest Election Request applies and, if different options are being elected with respect to different portions thereof, the portions thereof to be allocated to each resulting Borrowing (in which case the information to be specified pursuant to clauses (iii) and (iv) below shall be specified for each resulting Borrowing);

(ii) the effective date of the election made pursuant to such Interest Election Request, which shall be a Business Day;

(iii) whether the resulting Borrowing is to be an ABR Borrowing or a Eurodollar Borrowing; and

(iv) if the resulting Borrowing is a Eurodollar Borrowing, the Interest Period and Applicable Currency to be applicable thereto after giving effect to such election, which shall be a period contemplated by the definition of the term "Interest Period".

If any such Interest Election Request requests a Eurodollar Borrowing but does not specify an Interest Period, then the Borrower shall be deemed to have selected an Interest Period of one month's duration.

(c) Promptly following receipt of an Interest Election Request, the Administrative Agent shall advise each Lender of the details thereof and of such Lender's portion of each resulting Borrowing.

(d) If the Borrower fails to deliver a timely Interest Election Request with respect to a Eurodollar Revolving Borrowing prior to the end of the Interest Period applicable thereto, then, unless such Borrowing is repaid as provided herein, at the end of such Interest Period (i) in the case of a Eurodollar Borrowing denominated in dollars, such Borrowing shall be converted to an ABR Borrowing and (ii) in the case of a Eurodollar Borrowing denominated in a Foreign Currency, in respect of which the applicable Borrower shall have failed to deliver an Interest Election Request prior to the third (3rd) Business Day preceding the end of such Interest Period, such Borrowing shall automatically continue as a Eurodollar Revolving Borrowing in the same Applicable Currency with an Interest Period of one month unless such Eurodollar Revolving Borrowing is or was repaid in accordance with Section 2.11. Notwithstanding any contrary provision hereof, if an Event of Default has occurred and is continuing and the Administrative Agent, at the request of the Required Lenders, so notifies the Borrower, then, so long as such Event of Default is continuing (x) no outstanding Revolving Borrowing may be converted to or continued as a Eurodollar Borrowing, (y) unless repaid, each Eurodollar Revolving Borrowing denominated in dollars shall be converted to an ABR Borrowing at the end of the Interest Period applicable thereto and (z) unless repaid, each Eurodollar Revolving Borrowing denominated in a Foreign Currency shall automatically be continued as a Eurodollar Revolving Borrowing in the same Applicable Currency with an Interest Period of one month.

SECTION 2.09. Termination and Reduction of Commitments. (23) Unless previously terminated, the Commitments shall terminate on the Maturity Date.

(a) The Borrower may at any time terminate the Commitments upon (i) the payment in full of all outstanding Revolving Loans and LC Disbursements, together with accrued and unpaid interest thereon, (ii) the cancellation and return of all outstanding Letters of Credit (or alternatively, with respect to each such

Letter of Credit, the furnishing to the Administrative Agent of a cash deposit (or at the discretion of the Administrative Agent a backup standby letter of credit satisfactory to the Administrative Agent and the Issuing Bank) in a Dollar Equivalent equal to 105% of the LC Exposure as of such date), (iii) the payment in full of the accrued and unpaid fees, including applicable prepayment fee (if any), and (iv) the payment in full of all reimbursable expenses and other Obligations together with accrued and unpaid interest thereon.

(b) The Borrower may from time to time reduce the Commitments; provided that (i) each reduction of the Commitments shall be in an amount that is an integral multiple of $1,000,000 and not less than $5,000,000 and (ii) the Borrower shall not terminate or reduce the Commitments if, after giving effect to any concurrent prepayment of the Loans in accordance with Section 2.11, the Dollar Equivalent of the sum of the Total Revolving Credit Exposures would exceed the total Commitments.

(c) The Borrower shall notify the Administrative Agent of any election to terminate or reduce the Commitments under paragraph (b) of this Section at least three (3) Business Days prior to the effective date of such termination or reduction, specifying such election and the effective date thereof. Promptly following receipt of any notice, the Administrative Agent shall advise the Lenders of the contents thereof. Each notice delivered by the Borrower pursuant to this Section shall be irrevocable; provided that a notice of termination of the Commitments delivered by the Borrower may state that such notice is conditioned upon the effectiveness of other credit facilities, in which case such notice may be revoked by the Borrower (by notice to the Administrative Agent on or prior to the specified effective date) if such condition is not satisfied. Any termination or reduction of the Commitments shall be permanent. Each reduction of the Commitments shall be made ratably among the Lenders in accordance with their respective Commitments.

SECTION 2.10. Repayment of Loans; Evidence of Debt. (23) The Borrower hereby unconditionally promises to pay to the Administrative Agent for the account of each Lender the then unpaid principal amount of each Revolving Loan on the Maturity Date.

(a) Each Lender shall maintain in accordance with its usual practice an account or accounts evidencing the Indebtedness of the Borrower to such Lender resulting from each Loan made by such Lender, including the amounts of principal and interest payable and paid to such Lender from time to time hereunder.

(b) The Administrative Agent shall maintain accounts in which it shall record (i) the amount of each Loan made hereunder, the Class, Applicable Currency and Type thereof and the Interest Period applicable thereto, (ii) the amount of any principal or interest due and payable or to become due and payable from the Borrower to each Lender hereunder and (iii) the amount of any sum received by the Administrative Agent hereunder for the account of the Lenders and each Lender's share thereof.

(c) The entries made in the accounts maintained pursuant to paragraph (b) or (c) of this Section shall be *prima facie* evidence of the existence and amounts of the obligations recorded therein; provided that the failure of any Lender or the Administrative Agent to maintain such accounts or any error therein shall not in any manner affect the obligation of the Borrower to repay the Loans in accordance with the terms of this Agreement.

(d) Any Lender may request that Loans made by it be evidenced by a promissory note. In such event, the Borrower shall prepare, execute and deliver to such Lender a promissory note payable to such Lender (or, if requested by such Lender, to such Lender and its registered assigns) and in a form approved by the Administrative Agent. Thereafter, the Loans evidenced by such promissory note and interest thereon shall at all times (including after assignment pursuant to Section 9.04) be represented by one or more promissory notes in such form.

SECTION 2.11. Prepayment of Loans. (23) The Borrower shall have the right at any time and from time to time to prepay any Borrowing in whole or in part, subject to prior notice in accordance with paragraph (b) of this Section.

(a) The Borrower shall notify the Administrative Agent by telephone (confirmed by telecopy) of any prepayment hereunder (i) in the case of prepayment of a Eurodollar Revolving Borrowing denominated in dollars, not later than 1:00 p.m., New York City time, three (3) Business Days before the date of prepayment, (ii) in the case of prepayment of a Eurodollar Revolving Borrowing denominated in a Foreign Currency, not later than 11:00 a.m., Local Time, three (3) Business Days before the date of prepayment or (iii) in the case of prepayment of an ABR Revolving Borrowing, not later than 11:00 a.m., New York City time on the date of prepayment. Each such notice shall be irrevocable and shall specify the prepayment date and the principal amount of each Borrowing or portion thereof to be prepaid; provided that, if a notice of prepayment is given in connection with a conditional notice of termination of the Commitments as contemplated by Section 2.09, then such notice of prepayment may be revoked if such notice of termination is revoked in accordance with Section 2.09. Promptly following receipt of any such notice relating to a Revolving Borrowing, the Administrative Agent shall advise the Lenders of the contents thereof. Each partial prepayment of any Revolving Borrowing shall be in an amount that would be permitted in the case of an advance of a Revolving Borrowing of the same Type as provided in Section 2.02. Each prepayment of a Revolving Borrowing shall be applied ratably to the Loans included in the prepaid Borrowing. Prepayments shall be accompanied by accrued interest to the extent required by Section 2.13.

(b) If at any time the sum of the aggregate principal Dollar Equivalent of all of the Revolving Credit Exposures (calculated, with respect to those Credit Events denominated in Foreign Currencies, as of the most recent Computation Date with respect to each such Credit Event) exceeds (A) the aggregate Commitments or (B) the sum of the aggregate principal Dollar Equivalent of all of the outstanding Revolving Credit Exposures denominated in a Foreign Currency, as of the most recent Computation Date with respect to each such Credit Event, exceeds the Foreign Currency Sublimit, the Borrower shall immediately repay Borrowings or cash collateralize LC Exposure in an account with the Administrative Agent pursuant to Section 2.06(j), as applicable, in an aggregate principal amount sufficient to cause (x) the aggregate Dollar Equivalent of all Revolving Credit Exposures (so calculated) to be less than or equal to the aggregate Commitments and (y) the Revolving Credit Exposures denominated in a Foreign Currency to be less than or equal to the Foreign Currency Sublimit, as applicable.

SECTION 2.12. Fees. (23) The Borrower agrees to pay to the Administrative Agent for the account of each Lender a commitment fee, which shall accrue at the Applicable Rate on the daily unused amount of the Commitment of such Lender during the period from and including the Restatement Effective Date to but excluding the date on which such Commitment terminates. Accrued commitment fees shall be payable in arrears on the last day of March, June, September and December of each year and on the date on which the Commitments terminate, commencing on the first such date to occur after the date hereof. All commitment fees shall be computed on the basis of a year of 360 days and shall be payable for the actual number of days elapsed (including the first day but excluding the last day).

(a) The Borrower agrees to pay (i) to the Administrative Agent for the account of each Lender a participation fee with respect to its participations in Letters of Credit, which shall accrue at the same Applicable Rate used to determine the interest rate applicable to Eurodollar Revolving Loans on the average daily Dollar Equivalent of such Lender's LC Exposure (excluding any portion thereof attributable to unreimbursed LC Disbursements) during the period from and including the Restatement Effective Date to but excluding the later of the date on which such Lender's Commitment terminates and the date on which such Lender ceases to have any LC Exposure, and (ii) to the Issuing Bank a fronting fee, which shall accrue

at the rate or rates *per annum* separately agreed upon between the Borrower and the Issuing Bank on the average daily Dollar Equivalent of the LC Exposure (excluding any portion thereof attributable to unreimbursed LC Disbursements) during the period from and including the Restatement Effective Date to but excluding the later of the date of termination of the Commitments and the date on which there ceases to be any LC Exposure, as well as the Issuing Bank's standard fees with respect to the issuance, amendment, renewal or extension of any Letter of Credit or processing of drawings thereunder. Participation fees and fronting fees accrued through and including the last day of March, June, September and December of each year shall be payable on the third (3rd) Business Day following such last day, commencing on the first such date to occur after the Restatement Effective Date; provided that all such fees shall be payable on the date on which the Commitments terminate and any such fees accruing after the date on which the Commitments terminate shall be payable on demand. Any other fees payable to the Issuing Bank pursuant to this paragraph shall be payable within ten (10) days after demand. All participation fees and fronting fees shall be computed on the basis of a year of 360 days and shall be payable for the actual number of days elapsed (including the first day but excluding the last day).

(b) The Borrower agrees to pay to the Administrative Agent, for its own account, fees payable in the amounts and at the times separately agreed upon between the Borrower and the Administrative Agent.

(c) All fees payable hereunder shall be paid on the dates due, in immediately available funds, to the Administrative Agent (or to the Issuing Bank, in the case of fees payable to it) for distribution, in the case of commitment fees and participation fees, to the Lenders. Fees paid shall not be refundable under any circumstances.

SECTION 2.13. Interest. (23) The Loans comprising each ABR Borrowing shall bear interest at the Alternate Base Rate plus the Applicable Rate.

(a) The Loans comprising each Eurodollar Borrowing shall bear interest at the Adjusted LIBO Rate for the Interest Period in effect for such Borrowing plus the Applicable Rate.

(b) Notwithstanding the foregoing, if any principal of or interest on any Loan or any fee or other amount payable by the Borrower hereunder is not paid when due, whether at stated maturity, upon acceleration or otherwise, such overdue amount shall bear interest, after as well as before judgment, at a rate *per annum* equal to (i) in the case of overdue principal of any Loan, 2% plus the rate otherwise applicable to such Loan as provided in the preceding paragraphs of this Section or (ii) in the case of any other amount, 2% plus the rate applicable to ABR Loans as provided in paragraph (a) of this Section.

(c) Accrued interest on each Loan shall be payable in arrears on each Interest Payment Date for such Loan and, in the case of Revolving Loans, upon termination of the Commitments; provided that (i) interest accrued pursuant to paragraph (c) of this Section shall be payable on demand, (ii) in the event of any repayment or prepayment of any Loan (other than a prepayment of an ABR Revolving Loan prior to the end of the Availability Period), accrued interest on the principal amount repaid or prepaid shall be payable on the date of such repayment or prepayment and (iii) in the event of any conversion of any Eurodollar Revolving Loan prior to the end of the current Interest Period therefor, accrued interest on such Loan shall be payable on the effective date of such conversion.

(d) All interest hereunder shall be computed on the basis of a year of 360 days, except that (i) interest computed by reference to the Alternate Base Rate at times when the Alternate Base Rate is based on the Prime Rate shall be computed on the basis of a year of 365 days (or 366 days in a leap year), and (ii) interest on Eurodollar Borrowings denominated in a Foreign Currency (other than Canadian Dollars) shall be computed on the basis of a year of 365 days, and in each case shall be payable for the actual number of

days elapsed (including the first day but excluding the last day). The applicable Alternate Base Rate, Adjusted LIBO Rate or Eurocurrency Rate shall be determined by the Administrative Agent, and such determination shall be conclusive absent manifest error.

SECTION 2.14. Alternate Rate of Interest.

(a) If prior to the commencement of any Interest Period for a Eurodollar Borrowing:

(i) the Administrative Agent determines (which determination shall be conclusive absent manifest error) that adequate and reasonable means do not exist for ascertaining the Adjusted LIBO Rate or the Eurocurrency Rate, as applicable (including because the LIBO Screen Rate or the EURIBOR Rate, as applicable, is not available or published on a current basis), for such Interest Period; or

(ii) the Administrative Agent is advised in writing by the Required Lenders that the Adjusted LIBO Rate or the Eurocurrency Rate, as applicable, for the applicable currency and such Interest Period will not adequately and fairly reflect the cost to such Lenders (or Lender) of making or maintaining their Loans (or its Loan) included in such Borrowing for the applicable currency and such Interest Period;

then the Administrative Agent shall give notice thereof to the Borrower and the Lenders by telephone or telecopy as promptly as practicable thereafter and, until the Administrative Agent notifies the Borrower and the Lenders that the circumstances giving rise to such notice no longer exist, (i) any Interest Election Request that requests the conversion of any Borrowing to, or continuation of any Borrowing as, a Eurodollar Borrowing shall be ineffective and, unless repaid, (A) in the case of a Eurodollar Borrowing denominated in dollars, such Borrowing shall be made as an ABR Borrowing and (B) in the case of a Eurodollar Borrowing denominated in a Foreign Currency, such Eurodollar Borrowing shall be repaid on the last day of the then current Interest Period applicable thereto, and (ii) if any Borrowing Request requests (x) a Eurodollar Borrowing in dollars, such Borrowing shall be made as an ABR Borrowing and (y) a Eurodollar Borrowing in a Foreign Currency, such Borrowing Request shall be ineffective; provided that if the circumstances giving rise to such notice affect only one Type of Borrowings, then the other Type of Borrowings shall be permitted.

(b) If at any time the Administrative Agent determines (which determination shall be conclusive absent manifest error) that, solely with respect to the LIBO Screen Rate for dollars, (i) the circumstances set forth in clause (a)(i) have arisen and such circumstances are unlikely to be temporary or (ii) the circumstances set forth in clause (a)(i) have not arisen but either (w) the supervisor for the administrator of the LIBO Screen Rate for dollars has made a public statement that the administrator of such LIBO Screen Rate is insolvent (and there is no successor administrator that will continue publication of such LIBO Screen Rate), (x) the administrator of the LIBO Screen Rate for dollars has made a public statement identifying a specific date after which such LIBO Screen Rate will permanently or indefinitely cease to be published by it (and there is no successor administrator that will continue publication of the LIBO Screen Rate for dollars), (y) the supervisor for the administrator of the LIBO Screen Rate for dollars has made a public statement identifying a specific date after which such LIBO Screen Rate will permanently or indefinitely cease to be published or (z) the supervisor for the administrator of the LIBO Screen Rate for dollars or a Governmental Authority having jurisdiction over the Administrative Agent has made a public statement identifying a specific date after which the LIBO Screen Rate for dollars may no longer be used for determining interest rates for loans, then the Administrative Agent and the Borrower shall endeavor to establish an alternate rate of interest to the Eurocurrency Rate for dollars that gives due consideration to the then prevailing market convention for determining a rate of interest for syndicated loans denominated in dollars in the United States at such time,

and shall enter into an amendment to this Agreement to reflect such alternate rate of interest and such other related changes to this Agreement as may be applicable (but for the avoidance of doubt, such related changes shall not include a reduction of the Applicable Rate); provided that, if such alternate rate of interest as so determined would be less than zero, such rate shall be deemed to be zero for the purposes of this Agreement. Notwithstanding anything to the contrary in Section 9.02, such amendment, as agreed to between the Borrower and the Administrative Agent, shall become effective without any further action or consent of any other party to this Agreement so long as the Administrative Agent shall not have received, within five Business Days of the date notice of such alternate rate of interest is provided to the Lenders, a written notice from the Required Lenders stating that such Required Lenders object to such amendment. Until an alternate rate of interest shall be determined in accordance with this clause (b) (but, in the case of the circumstances described in clause (ii)(w), (ii)(x) or (ii)(y) of the first sentence of this Section 2.14(b), only to the extent the LIBO Screen Rate for the applicable currency and such Interest Period is not available or published at such time on a current basis), (x) any Interest Election Request that requests the conversion of any Borrowing to, or continuation of any Borrowing as, a Eurodollar Borrowing shall be ineffective and (y) if any Borrowing Request requests a Eurodollar Borrowing, such Borrowing shall be made as an ABR Borrowing.

SECTION 2.15. Increased Costs. (23) If any Change in Law shall:

(i) impose, modify or deem applicable any reserve, special deposit, liquidity or similar requirement (including any compulsory loan requirement, insurance charge or other assessment) against assets of, deposits with or for the account of, or credit extended by, any Lender (except any such reserve requirement reflected in the Adjusted LIBO Rate) or the Issuing Bank;

(ii) impose on any Lender or the Issuing Bank or the London interbank market any other condition, cost or expense (other than Taxes) affecting this Agreement or Loans made by such Lender or any Letter of Credit or participation therein; or

(iii) subject any Recipient to any Taxes (other than (A) Indemnified Taxes, (B) Taxes described in clauses (b) through (d) of the definition of Excluded Taxes and (C) Connection Income Taxes) on its loans, loan principal, letters of credit, commitments, or other obligations, or its deposits, reserves, other liabilities or capital attributable thereto;

and the result of any of the foregoing shall be to increase the cost to such Lender or such other Recipient of making, continuing, converting or maintaining any Loan, or of maintaining its obligation to make any such Loan (including, without limitation, pursuant to any conversion of any Borrowing denominated in an Applicable Currency into a Borrowing denominated in any other Applicable Currency), or to increase the cost to such Lender, the Issuing Bank or such other Recipient of participating in, issuing or maintaining any Letter of Credit (including, without limitation, pursuant to any conversion of any Borrowing denominated in an Applicable Currency into a Borrowing denominated in any other Applicable Currency) or to reduce the amount of any sum received or receivable by such Lender, the Issuing Bank or such other Recipient hereunder, whether of principal, interest or otherwise (including, without limitation, pursuant to any conversion of any Borrowing denominated in an Applicable Currency into a Borrowing denominated in any other Applicable Currency), then the Borrower will pay to such Lender, the Issuing Bank or such other Recipient, as the case may be, such additional amount or amounts as will compensate such Lender, the Issuing Bank or such other Recipient, as the case may be, for such additional costs incurred or reduction suffered.

(b) If any Lender or the Issuing Bank determines that any Change in Law regarding capital or liquidity requirements has or would have the effect of reducing the rate of return on such Lender's or the

Issuing Bank's capital or on the capital of such Lender's or the Issuing Bank's holding company, if any, as a consequence of this Agreement or the Loans made by, or participations in Letters of Credit held by, such Lender, or the Letters of Credit issued by the Issuing Bank, to a level below that which such Lender or the Issuing Bank or such Lender's or the Issuing Bank's holding company could have achieved but for such Change in Law (taking into consideration such Lender's or the Issuing Bank's policies and the policies of such Lender's or the Issuing Bank's holding company with respect to capital adequacy and liquidity and so long as it is generally the policy of such Lender to seek reimbursement for such amounts from similarly situated borrower), then from time to time the Borrower will pay to such Lender or the Issuing Bank, as the case may be, such additional amount or amounts as will compensate such Lender or the Issuing Bank or such Lender's or the Issuing Bank's holding company for any such reduction suffered.

(c) A certificate of a Lender or the Issuing Bank setting forth the amount or amounts necessary to compensate such Lender or the Issuing Bank or its holding company, as the case may be, as specified in paragraph (a) or (b) of this Section shall be delivered to the Borrower and shall be conclusive absent manifest error. The Borrower shall pay such Lender or the Issuing Bank, as the case may be, the amount shown as due on any such certificate within ten (10) days after receipt thereof.

(d) Failure or delay on the part of any Lender or the Issuing Bank to demand compensation pursuant to this Section shall not constitute a waiver of such Lender's or the Issuing Bank's right to demand such compensation; provided that the Borrower shall not be required to compensate a Lender or the Issuing Bank pursuant to this Section for any increased costs or reductions incurred more than 180 days prior to the date that such Lender or the Issuing Bank, as the case may be, notifies the Borrower of the Change in Law giving rise to such increased costs or reductions and of such Lender's or the Issuing Bank's intention to claim compensation therefor; provided further that, if the Change in Law giving rise to such increased costs or reductions is retroactive, then the 180-day period referred to above shall be extended to include the period of retroactive effect thereof.

SECTION 2.16. Break Funding Payments. In the event of (a) the payment of any principal of any Eurodollar Loan other than on the last day of an Interest Period applicable thereto (including as a result of an Event of Default), (b) the conversion of any Eurodollar Loan other than on the last day of the Interest Period applicable thereto, (c) the failure to borrow, convert, continue or prepay any Eurodollar Loan on the date specified in any notice delivered pursuant hereto (regardless of whether such notice may be revoked under Section 2.11(b) and is revoked in accordance therewith), or (d) the assignment of any Eurodollar Loan other than on the last day of the Interest Period applicable thereto as a result of a request by the Borrower pursuant to Section 2.19 or 9.02(d), then, in any such event, the Borrower shall compensate each Lender for the loss, cost and expense attributable to such event. In the case of a Eurodollar Loan, such loss, cost or expense to any Lender shall be deemed to include an amount determined by such Lender to be the excess, if any, of (i) the amount of interest which would have accrued on the principal amount of such Loan had such event not occurred, at the Adjusted LIBO Rate that would have been applicable to such Loan, for the period from the date of such event to the last day of the then current Interest Period therefor (or, in the case of a failure to borrow, convert or continue, for the period that would have been the Interest Period for such Loan), over (ii) the amount of interest which would accrue on such principal amount for such period at the interest rate which such Lender would bid were it to bid, at the commencement of such period, for dollar deposits of a comparable amount and period from other banks in the eurodollar market. A certificate of any Lender setting forth any amount or amounts that such Lender is entitled to receive pursuant to this Section shall be delivered to the Borrower and shall be conclusive absent manifest error. The Borrower shall pay such Lender the amount shown as due on any such certificate within ten (10) days after receipt thereof.

SECTION 2.17. Payments Free of Taxes. **(23)** Any and all payments by or on account of any obligation of the Borrower under any Loan Document shall be made without deduction or withholding for any Taxes, except as required by current and future applicable law. If any applicable law (as determined in the good faith discretion of an applicable withholding agent) requires the deduction or withholding of any Tax from any such payment by a withholding agent, then the applicable withholding agent shall be entitled to make such deduction or withholding and shall timely pay the full amount deducted or withheld to the relevant Governmental Authority in accordance with applicable law and, if such Tax is an Indemnified Tax, then the sum payable by the applicable Loan Party shall be increased as necessary so that after such deduction or withholding has been made (including such deductions and withholdings applicable to additional sums payable under this Section 2.17) the applicable Recipient receives an amount equal to the sum it would have received had no such deduction or withholding been made.

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

(b) Evidence of Payments. As soon as practicable after any payment of Taxes by any Loan Party to a Governmental Authority pursuant to this Section 2.17, the Borrower shall deliver to the Administrative Agent the original or a certified copy of a receipt issued by such Governmental Authority evidencing such payment, a copy of the return reporting such payment or other evidence of such payment reasonably satisfactory to the Administrative Agent.

(c) Indemnification by the Borrower. The Borrower shall indemnify each Recipient, within ten (10) days after demand therefor, for the full amount of any Indemnified Taxes (including Indemnified Taxes imposed or asserted on or attributable to amounts payable under this Section) payable or paid by such Recipient or required to be withheld or deducted from a payment to such Recipient and any reasonable expenses arising therefrom or with respect thereto, whether or not such Indemnified Taxes were correctly or legally imposed or asserted by the relevant Governmental Authority. A certificate as to the amount of such payment or liability delivered to the Borrower by a Lender (with a copy to the Administrative Agent), or by the Administrative Agent on its own behalf or on behalf of a Lender, shall be conclusive absent manifest error.

(d) Indemnification by the Lenders. Each Lender shall severally indemnify the Administrative Agent, within ten (10) days after demand therefor, for (i) any Indemnified Taxes attributable to such Lender (but only to the extent that the Borrower has not already indemnified the Administrative Agent for such Indemnified Taxes and without limiting the obligation of the Borrower to do so), (ii) any Taxes attributable to such Lender's failure to comply with the provisions of Section 9.04(c) relating to the maintenance of a Participant Register and (iii) any Excluded Taxes attributable to such Lender, in each case, that are payable or paid by the Administrative Agent in connection with any Loan Document, and any reasonable expenses arising therefrom or with respect thereto, whether or not such Taxes were correctly or legally imposed or asserted by the relevant Governmental Authority. A certificate as to the amount of such payment or liability delivered to any Lender by the Administrative Agent shall be conclusive absent manifest error. Each Lender hereby authorizes the Administrative Agent to set off and apply any and all amounts at any time owing to such Lender under any Loan Document or otherwise payable by the Administrative Agent to the Lender from any other source against any amount due to the Administrative Agent under this paragraph (e).

(e) Status of Lenders. (23) Any Lender that is entitled to an exemption from or reduction of withholding Tax with respect to payments made under any Loan Document shall deliver to the Borrower and the Administrative Agent, at the time or times reasonably requested by the Borrower or the Administrative

Agent, such properly completed and executed documentation reasonably requested by the Borrower or the Administrative Agent as will permit such payments to be made without withholding or at a reduced rate of withholding. In addition, any Lender, if reasonably requested by the Borrower or the Administrative Agent, shall deliver such other documentation prescribed by applicable law or reasonably requested by the Borrower or the Administrative Agent as will enable the Borrower or the Administrative Agent to determine whether or not such Lender is subject to backup withholding or information reporting requirements. Notwithstanding anything to the contrary in the preceding two sentences, the completion, execution and submission of such documentation (other than such documentation set forth in Section 2.17(f)(ii)(A), (ii)(B) and (ii)(D) below) shall not be required if in the Lender's reasonable judgment such completion, execution or submission would subject such Lender to any material unreimbursed cost or expense or would materially prejudice the legal or commercial position of such Lender.

(i) Without limiting the generality of the foregoing, in the event that the Borrower is a U.S. Person,

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

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

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

(2) in the case of a Foreign Lender claiming that its extension of credit will generate U.S. effectively connected income, an executed IRS Form W-8ECI;

(3) in the case of a Foreign Lender claiming the benefits of the exemption for portfolio interest under Section 881(c) of the Code, (x) a certificate substantially in the form of Exhibit C-1 to the effect that such Foreign Lender is not a "bank" within the meaning of Section 881(c)(3)(A) of the Code, a "10 percent shareholder" of the Borrower within the meaning of Section 881(c)(3)(B) of the Code, or a "controlled foreign corporation" described in Section 881(c)(3)(C) of the Code (a "***U.S. Tax Compliance Certificate***") and (y) executed IRS Form W-8BEN-E or IRS Form W-8BEN; or

(4) to the extent a Foreign Lender is not the beneficial owner, an executed IRS Form W-8IMY, accompanied by IRS Form W-8ECI, IRS Form W-8BEN-E, IRS Form W-8BEN, a U.S. Tax Compliance Certificate substantially in the form of Exhibit C-2 or

Exhibit C-3, IRS Form W-9, and/or other certification documents from each beneficial owner, as applicable; provided that if the Foreign Lender is a partnership and one or more direct or indirect partners of such Foreign Lender are claiming the portfolio interest exemption, such Foreign Lender may provide a U.S. Tax Compliance Certificate substantially in the form of Exhibit C-4 on behalf of each such direct and indirect partner;

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

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

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

(f) Treatment of Certain Refunds. If any party determines, in its sole discretion exercised in good faith, that it has received a refund of any Taxes as to which it has been indemnified pursuant to this Section 2.17 (including by the payment of additional amounts pursuant to this Section 2.17), it shall pay to the indemnifying party an amount equal to such refund (but only to the extent of indemnity payments made under this Section 2.17 with respect to the Taxes giving rise to such refund), net of all out-of-pocket expenses (including Taxes) of such indemnified party and without interest (other than any interest paid by the relevant Governmental Authority with respect to such refund). Such indemnifying party, upon the request of such indemnified party, shall repay to such indemnified party the amount paid over pursuant to this paragraph (g) (plus any penalties, interest or other charges imposed by the relevant Governmental Authority) in the event that such indemnified party is required to repay such refund to such Governmental Authority. Notwithstanding anything to the contrary in this paragraph (g), in no event will the indemnified party be required to pay any amount to an indemnifying party pursuant to this paragraph (g) the payment of which would place the indemnified party in a less favorable net after-Tax position than the indemnified party would have been in if the Tax subject to indemnification and giving rise to such refund had not been deducted, withheld or otherwise imposed and the indemnification payments or additional amounts giving rise to such

refund had never been paid. This paragraph shall not be construed to require any indemnified party to make available its Tax returns (or any other information relating to its Taxes that it deems confidential) to the indemnifying party or any other Person.

(g) Survival. Each party's obligations under this Section 2.17 shall survive the resignation or replacement of the Administrative Agent or any assignment of rights by, or the replacement of, a Lender, the termination of the Commitments and the repayment, satisfaction or discharge of all obligations under any Loan Document.

(h) Defined Terms. For purposes of this Section 2.17, the term "***Lender***" includes any Issuing Bank and the term "***applicable law***" includes FATCA.

SECTION 2.18. Payments Generally; Pro Rata Treatment; Sharing of Set-offs. (23) The Borrower shall make each payment required to be made by it hereunder (whether of principal, interest, fees or reimbursement of LC Disbursements, or of amounts payable under Section 2.15, 2.16 or 2.17, or otherwise) prior to (i) in the case of payments denominated in dollars, 12:00 noon, New York City time and (ii) in the case of payments denominated in a Foreign Currency, 12:00 noon, Local Time, in the city of the Administrative Agent's Applicable Payment Office for such currency, in each case on the date when due, in immediately available funds, without set-off or counterclaim. Any amounts received after such time on any date may, in the discretion of the Administrative Agent, be deemed to have been received on the next succeeding Business Day for purposes of calculating interest thereon. All such payments shall be made (i) subject to Section 2.06(e), in the same currency in which the applicable Credit Event was made (or where such currency has been converted to another Applicable Currency, in such Applicable Currency) and (ii) to the Administrative Agent at its offices at 270 Park Avenue, New York, New York, or, in the case of a Credit Event denominated in a Foreign Currency, the Administrative Agent's Applicable Payment Office for such currency, except payments to be made directly to the Issuing Bank as expressly provided herein and except that payments pursuant to Sections 2.15, 2.16, 2.17 and 9.03 shall be made directly to the Persons entitled thereto. The Administrative Agent shall distribute any such payments denominated in the same currency received by it for the account of any other Person to the appropriate recipient promptly following receipt thereof. If any payment hereunder shall be due on a day that is not a Business Day, the date for payment shall be extended to the next succeeding Business Day, and, in the case of any payment accruing interest, interest thereon shall be payable for the period of such extension. Notwithstanding the foregoing provisions of this Section, if, after the making of any Credit Event in any Foreign Currency, currency control or exchange regulations are imposed in the country which issues such currency with the result that the type of currency in which the Credit Event was made (the "***Original Currency***") no longer exists or the Borrower is not able to make payment to the Administrative Agent for the account of the Lenders in such Original Currency, then all payments to be made by the Borrower hereunder in such currency shall instead be made when due in dollars in an amount equal to the Dollar Equivalent (as of the date of repayment) of such payment due, it being the intention of the parties hereto that the Borrower take all risks of the imposition of any such currency control or exchange regulations.

(a) Any funds or proceeds of Collateral received by the Administrative Agent (i) not constituting either (A) a specific payment of principal, interest, fees or other sum payable under the Loan Documents (which shall be applied as specified by the Borrower), or (B) a mandatory prepayment (which shall be applied in accordance with Section 2.11) or (ii) after an Event of Default has occurred and is continuing and the Administrative Agent so elects or the Required Lenders so direct, shall be applied ratably first, to pay any fees, indemnities, or expense reimbursements including amounts then due to the Administrative Agent and the Issuing Bank from the Borrower (other than in connection with Banking Services Obligations or Swap Agreement Obligations), second, to pay any fees or expense reimbursements then due to the Lenders from

the Borrower (other than in connection with Banking Services Obligations or Swap Agreement Obligations), third, to pay interest then due and payable on the Loans ratably, fourth, to prepay principal on the Loans and unreimbursed LC Disbursements and to pay any amounts owing with respect to Swap Agreement Obligations up to and including the amount most recently provided to the Administrative Agent pursuant to Section 2.22, ratably, fifth, to pay an amount to the Administrative Agent equal to one hundred five percent (105%) of the aggregate LC Exposure, to be held as cash collateral for such Obligations, and sixth, to the payment of any amounts owing in respect of Banking Services Obligations up to and including the amount most recently provided to the Administrative Agent pursuant to Section 2.22, and seventh, to the payment of any other Secured Obligation due to the Administrative Agent or any Lender from the Borrower or any other Loan Party.

Notwithstanding the foregoing, Secured Obligations arising under Banking Services Obligations or Swap Agreement Obligations shall be excluded from the application described above and paid in clause seventh if the Administrative Agent has not received written notice thereof, together with such supporting documentation as the Administrative Agent may have reasonably requested from the applicable provider of such Banking Services or Swap Agreements.

(b) If any Lender shall, by exercising any right of set off or counterclaim or otherwise, obtain payment in respect of any principal of or interest on any of its Revolving Loans or participations in LC Disbursements resulting in such Lender receiving payment of a greater proportion of the aggregate amount of its Revolving Loans and participations in LC Disbursements and accrued interest thereon than the proportion received by any other Lender, then the Lender receiving such greater proportion shall purchase (for cash at face value) participations in the Revolving Loans and participations in LC Disbursements of other Lenders to the extent necessary so that the benefit of all such payments shall be shared by the Lenders ratably in accordance with the aggregate amount of principal of and accrued interest on their respective Revolving Loans and participations in LC Disbursements; provided that (i) if any such participations are purchased and all or any portion of the payment giving rise thereto is recovered, such participations shall be rescinded and the purchase price restored to the extent of such recovery, without interest, and (ii) the provisions of this paragraph shall not be construed to apply to any payment made by the Borrower pursuant to and in accordance with the express terms of this Agreement or any payment obtained by a Lender as consideration for the assignment of or sale of a participation in any of its Loans or participations in LC Disbursements to any assignee or participant, other than to the Borrower or any Subsidiary or Affiliate thereof (as to which the provisions of this paragraph shall apply). The Borrower consents to the foregoing and agrees, to the extent it may effectively do so under applicable law, that any Lender acquiring a participation pursuant to the foregoing arrangements may exercise against the Borrower rights of set-off and counterclaim with respect to such participation as fully as if such Lender were a direct creditor of the Borrower in the amount of such participation.

(c) Unless the Administrative Agent shall have received notice from the Borrower prior to the date on which any payment is due to the Administrative Agent for the account of the Lenders or the Issuing Bank hereunder that the Borrower will not make such payment, the Administrative Agent may assume that the Borrower has made such payment on such date in accordance herewith and may, in reliance upon such assumption, distribute to the Lenders or the Issuing Bank, as the case may be, the amount due. In such event, if the Borrower has not in fact made such payment, then each of the Lenders or the Issuing Bank, as the case may be, severally agrees to repay to the Administrative Agent forthwith on demand the amount so distributed to such Lender or Issuing Bank with interest thereon, for each day from and including the date such amount is distributed to it to but excluding the date of payment to the Administrative Agent, at the greater of the Federal Funds Effective Rate and a rate determined by the Administrative Agent in accordance with banking

industry rules on interbank compensation (including without limitation the Overnight Foreign Currency Rate in the case of Loans denominated in a Foreign Currency).

(d) If any Lender shall fail to make any payment required to be made by it pursuant to Section 2.06(d) or 2.06(e), 2.07(b), 2.18(d) or 9.03(c), then the Administrative Agent may, in its discretion and notwithstanding any contrary provision hereof, (i) apply any amounts thereafter received by the Administrative Agent for the account of such Lender to satisfy such Lender's obligations under such Sections until all such unsatisfied obligations are fully paid, and/or (ii) hold such amounts in a segregated account over which the Administrative Agent shall have exclusive control as cash collateral for, and application to, any future funding obligations of such Lender under any such Section, in the case of each of clauses (i) and (ii) above, in any order as determined by the Administrative Agent in its discretion.

SECTION 2.19. Mitigation Obligations; Replacement of Lenders. (23) If any Lender requests compensation under Section 2.15, or if the Borrower is required to pay any Indemnified Taxes or additional amounts to any Lender or any Governmental Authority for the account of any Lender pursuant to Section 2.17, then such Lender shall use reasonable efforts to designate a different lending office for funding or booking its Loans hereunder or to assign its rights and obligations hereunder to another of its offices, branches or affiliates, if, in the judgment of such Lender, such designation or assignment (i) would eliminate or reduce amounts payable pursuant to Sections 2.15 or 2.17, as the case may be, in the future and (ii) would not subject such Lender to any unreimbursed cost or expense and would not otherwise be disadvantageous to such Lender. The Borrower hereby agrees to pay all reasonable costs and expenses incurred by any Lender in connection with any such designation or assignment.

(a) If any Lender (i) requests compensation under Section 2.15, (ii) if the Borrower is required to pay any Indemnified Taxes or additional amounts to any Lender or any Governmental Authority for the account of any Lender pursuant to Section 2.17, (iii) if any Lender becomes Defaulting Lender or (iv) if any Lender has failed to consent to any amendment, consent or waiver that has been approved by the Required Lenders but requires the approval of all the Lenders, then the Borrower may, at its sole expense and effort, upon notice to such Lender and the Administrative Agent, require such Lender to assign and delegate, without recourse (in accordance with and subject to the restrictions contained in Section 9.04), all its interests, rights (other than its existing rights to payments pursuant to Sections 2.15 or 2.17) and obligations under this Agreement to an assignee that shall assume such obligations (which assignee may be another Lender, if a Lender accepts such assignment); provided that (i) the Borrower shall have received the prior written consent of the Administrative Agent (and if a Commitment is being assigned, the Issuing Bank), which consent shall not unreasonably be withheld, (ii) such Lender shall have received payment of an amount equal to the outstanding principal of its Loans and participations in LC Disbursements, accrued interest thereon, accrued fees and all other amounts payable to it hereunder, from the assignee (to the extent of such outstanding principal and accrued interest and fees) or the Borrower (in the case of all other amounts) and (iii) in the case of any such assignment resulting from a claim for compensation under Section 2.15 or payments required to be made pursuant to Section 2.17, such assignment will result in a reduction in such compensation or payments. A Lender shall not be required to make any such assignment and delegation if, prior thereto, as a result of a waiver by such Lender or otherwise, the circumstances entitling the Borrower to require such assignment and delegation cease to apply.

SECTION 2.20. Defaulting Lenders. Notwithstanding any provision of this Agreement to the contrary, if any Lender becomes a Defaulting Lender, then the following provisions shall apply for so long as such Lender is a Defaulting Lender:

(a) fees shall cease to accrue on the Commitment of such Defaulting Lender pursuant to Section 2.12(a);

(b) such Defaulting Lender shall not have the right to vote on any issue on which voting is required (other than to the extent expressly provided in Section 9.02(b)) and the Commitment and Revolving Credit Exposure of such Defaulting Lender shall not be included in determining whether the Required Lenders have taken or may take any action hereunder (including any consent to any amendment, waiver or other modification pursuant to Section 9.02); provided that, except as otherwise provided in Section 9.02, this clause (b) shall not apply to the vote of a Defaulting Lender in the case of an amendment, waiver or other modification requiring the consent of such Lender or each Lender affected thereby; and

(c) if any LC Exposure exists at the time such Lender becomes a Defaulting Lender then:

(i) all or any part of the LC Exposure of such Defaulting Lender shall be reallocated among the non-Defaulting Lenders in accordance with their respective Applicable Percentages but only (x) to the extent that such reallocation does not, as to any non-Defaulting Lender, cause such non-Defaulting Lender's Revolving Credit Exposure to exceed its Commitment and (y) if the conditions set forth in Section 4.02 are satisfied at such time;

(ii) if the reallocation described in clause (i) above cannot, or can only partially, be effected, the Borrower shall within one (1) Business Day following notice by the Administrative Agent cash collateralize for the benefit of the Issuing Bank only the Borrower's obligations corresponding to such Defaulting Lender's LC Exposure (after giving effect to any partial reallocation pursuant to clause (i) above) in accordance with the procedures set forth in Section 2.06(j) for so long as such LC Exposure is outstanding;

(iii) if the Borrower cash collateralizes any portion of such Defaulting Lender's LC Exposure pursuant to clause (ii) above, the Borrower shall not be required to pay any fees to such Defaulting Lender pursuant to Section 2.12(b) with respect to such Defaulting Lender's LC Exposure during the period such Defaulting Lender's LC Exposure is cash collateralized;

(iv) if the LC Exposure of the non-Defaulting Lenders is reallocated pursuant to clause (i) above, then the fees payable to the Lenders pursuant to Section 2.12(a) and Section 2.12(b) shall be adjusted in accordance with such non-Defaulting Lenders' Applicable Percentages; and

(v) if all or any portion of such Defaulting Lender's LC Exposure is neither reallocated nor cash collateralized pursuant to clause (i) or (ii) above, then, without prejudice to any rights or remedies of the Issuing Bank or any other Lender hereunder, all commitment fees that otherwise would have been payable to such Defaulting Lender (solely with respect to the portion of such Defaulting Lender's Commitment that was utilized by such LC Exposure) and letter of credit fees payable under Section 2.12(b) with respect to such Defaulting Lender's LC Exposure shall be payable to the Issuing Bank until and to the extent that such LC Exposure is reallocated and/or cash collateralized.

If (i) a Bankruptcy Event or a Bail-In Action with respect to a Lender Parent shall occur following the date hereof and for so long as such event shall continue or (ii) the Issuing Bank has a good faith belief that any Lender has defaulted in fulfilling its obligations under one or more other agreements in which such Lender commits to extend credit, the Issuing Bank shall not be required to issue, amend or increase any Letter of Credit, unless the Issuing Bank shall have entered into arrangements with the Borrower or such Lender, satisfactory to the Issuing Bank to defease any risk to it in respect of such Lender hereunder.

In the event that the Administrative Agent, the Borrower, and the Issuing Bank each agrees that a Defaulting Lender has adequately remedied all matters that caused such Lender to be a Defaulting Lender, then the LC Exposure of the Lenders shall be readjusted to reflect the inclusion of such Lender's Commitment and on such date such Lender shall purchase at par such of the Loans of the other Lenders as the Administrative Agent shall determine may be necessary in order for such Lender to hold such Loans in accordance with its Applicable Percentage.

SECTION 2.21. Increase in Commitments.

(a) Request for Increase. Provided there exists no Default, upon notice to the Administrative Agent (which shall promptly notify the Lenders), the Borrower may from time to time request an increase in the Commitments by an amount (for all such increases) not exceeding $300,000,000; provided that (i) any such increase shall be in a minimum amount of $25,000,000 and (ii) the Borrower may make a maximum of three such increases.

(b) Increasing and Additional Lenders. The Borrower may, in consultation with the Administrative Agent, designate any Lender party to this Agreement (with the consent of such Lender, which may be given or withheld in its sole discretion) or another Person (which may be, but need not be, an existing Lender) which is not an Ineligible Institution and which such Person shall be subject to the consent of the Administrative Agent and the Issuing Bank (such consents not to be unreasonably withheld) if such Person is not a Lender, an Affiliate of a Lender or an Approved Fund and which at the time agrees in its sole discretion to (i) in the case of any such designated Lender that is an existing Lender, increase its Commitment, and (ii) in the case of any other such Person (an "Additional Lender"), become a party to this Agreement pursuant to a customary joinder agreement in form and substance reasonably satisfactory to the Administrative Agent and its counsel.

(c) Effective Date and Allocations. If the Commitments are increased in accordance with this Section, the Borrower shall determine the effective date (the "Increase Effective Date") and the final allocation of such increase in consultation with the Administrative Agent. The Administrative Agent shall promptly notify the Lenders of the final allocation of such increase and the Increase Effective Date.

(d) Conditions to Effectiveness of Increase. As a condition precedent to such increase, the Borrower shall deliver to the Administrative Agent a certificate of each Loan Party dated as of the Increase Effective Date (in sufficient copies for each Lender) signed by a Responsible Officer of such Loan Party (x) certifying and attaching the resolutions adopted by such Loan Party approving or consenting to such increase, and (y) in the case of the Borrower, certifying that, before and after giving effect to such increase, the representations and warranties contained in Article V and the other Loan Documents are true and correct in all material respects on and as of the Increase Effective Date, except to the extent that such representations and warranties specifically refer to an earlier date, in which case they are true and correct in all material respects as of such earlier date. The Borrower shall prepay any Revolving Loans outstanding on the Increase Effective Date (and pay any additional amounts required pursuant to Section 2.16) to the extent necessary to keep the outstanding Revolving Loans ratable with any revised Applicable Percentages arising from any nonratable increase in the Commitments under this Section.

(e) Conflicting Provisions. This Section shall supersede any provisions in Section 2.18 or 9.02 to the contrary.

SECTION 2.22. Returned Payments. If, after receipt of any payment which is applied to the payment of all or any part of the Obligations (including a payment effected through exercise of a right of setoff), the Administrative Agent or any Lender is for any reason compelled to surrender such payment or proceeds to

any Person because such payment or application of proceeds is invalidated, declared fraudulent, set aside, determined to be void or voidable as a preference, impermissible setoff, or a diversion of trust funds, or for any other reason (including pursuant to any settlement entered into by the Administrative Agent or such Lender in its discretion), then the Obligations or part thereof intended to be satisfied shall be revived and continued and this Agreement shall continue in full force as if such payment or proceeds had not been received by the Administrative Agent or such Lender. The provisions of this Section 2.22 shall be and remain effective notwithstanding any contrary action which may have been taken by the Administrative Agent or any Lender in reliance upon such payment or application of proceeds. The provisions of this Section 2.22 shall survive the termination of this Agreement.

SECTION 2.23. Banking Services and Swap Agreements. Each Lender or Affiliate thereof providing Banking Services for, or having Swap Agreements with, any Loan Party or any Subsidiary thereof shall deliver to the Administrative Agent, promptly after entering into such Banking Services or Swap Agreements, written notice setting forth the aggregate amount of all Banking Services Obligations and Swap Agreement Obligations of such Loan Party or Subsidiary thereof to such Lender or Affiliate (whether matured or unmatured, absolute or contingent). In furtherance of that requirement, each such Lender or Affiliate thereof shall furnish the Administrative Agent, from time to time after a significant change therein or upon a request therefor, a summary of the amounts due or to become due in respect of such Banking Services Obligations and Swap Agreement Obligations. The most recent information provided to the Administrative Agent shall be used in determining which tier of the waterfall, contained in Section 2.18(b), such Banking Services Obligations and/or Swap Agreement Obligations will be placed.

ARTICLE III
Representations and Warranties

The Borrower represents and warrants to the Administrative Agent and the Lenders that:

SECTION 3.01. Organization; Powers. Each of the Loan Parties and their Subsidiaries is duly organized, validly existing and in good standing under the laws of the jurisdiction of its organization, has all requisite power and authority to carry on its business as now conducted and, except where the failure to do so, individually or in the aggregate, could not reasonably be expected to result in a Material Adverse Effect, is qualified to do business in, and is in good standing in, every jurisdiction where such qualification is required.

SECTION 3.02. Authorization; Enforceability. The Transactions are within the Borrower's and each other Loan Party's corporate powers and have been duly authorized by all necessary corporate and, if required, stockholder action. This Agreement has been duly executed and delivered by the Borrower and constitutes a legal, valid and binding obligation of the Borrower, enforceable in accordance with its terms, subject to applicable bankruptcy, insolvency, reorganization, moratorium or other laws affecting creditors' rights generally and subject to general principles of equity, regardless of whether considered in a proceeding in equity or at law.

SECTION 3.03. Governmental Approvals; No Conflicts. The Transactions (a) do not require any consent or approval of, registration or filing with, or any other action by, any Governmental Authority, except such as have been obtained or made and are in full force and effect, and except for filings necessary to perfect Liens created pursuant to the Loan Documents, (b) will not violate any Requirement of Law applicable to any Loan Party or any Subsidiary, (c) will not violate or result in a default under any indenture, material agreement or other material instrument binding upon any Loan Party or any of their Subsidiaries or their assets, or give rise to a right thereunder to require any payment to be made by any Loan Party or any of their

Subsidiaries, and (d) will not result in the creation or imposition of any Lien on any asset of any Loan Party or any of their Subsidiaries, except Liens created pursuant to the Loan Documents.

SECTION 3.04. Financial Condition; No Material Adverse Change. (23) The Borrower has heretofore furnished to the Lenders its consolidated balance sheet and statements of income, stockholders equity and cash flows (i) as of and for the fiscal year ended December 31, 2017, audited by Ernst & Young LLP, independent public accountants, and (ii) as of and for the fiscal quarter and the portion of the fiscal year ended September 30, 2018, certified by its chief financial officer. Such financial statements present fairly, in all material respects, the financial position and results of operations and cash flows of the Borrower and its consolidated Subsidiaries as of such dates and for such periods in accordance with GAAP, subject to year-end audit adjustments and the absence of footnotes in the case of the statements referred to in clause (ii) above.

(a) Since December 31, 2017, there has been no event, development or circumstance that has had or would reasonably be expected to have a Material Adverse Effect.

SECTION 3.05. Properties. (23) Each of the Loan Parties and its Subsidiaries has good title to, or valid leasehold interests in, all its real and personal property material to its business, except for minor defects in title that do not interfere with its ability to conduct its business as currently conducted or to utilize such properties for their intended purposes or except where the failure to do so would not reasonably be expected to have a Material Adverse Effect.

(a) As of the Restatement Effective Date, the Loan Parties do not have any interest in, or title to, any United States federally registered Intellectual Property except as set forth in Schedule 3.05. Each of the Loan Parties and its Subsidiaries owns, or is licensed to use, all Trademarks, Copyrights, Patents and other Intellectual Property free and clear of all Liens (other than Liens permitted under Section 6.02), and the use thereof by the Loan Parties and their Subsidiaries does not infringe upon the rights of any other Person, except for any such infringements that, individually or in the aggregate, could not reasonably be expected to result in a Material Adverse Effect.

SECTION 3.06. Litigation and Environmental Matters. (23) There are no actions, suits or proceedings by or before any arbitrator or Governmental Authority pending against or, to the knowledge of the Borrower, threatened against or affecting any Loan Party or any of their Subsidiaries that would reasonably be expected, individually or in the aggregate, to result in a Material Adverse Effect (other than the Disclosed Matters) or (ii) that involve any Loan Document or the Transactions.

(a) Except for the Disclosed Matters, (i) as of the Restatement Effective Date, no Loan Party or any Subsidiary has received notice of any claim with respect to any Environmental Liability or knows of any basis for any Environmental Liability and (ii) except with respect to any other matters that, individually or in the aggregate, would not reasonably be expected to result in a Material Adverse Effect, no Loan Party nor any of their Subsidiaries (A) has failed to comply with any Environmental Law or to obtain, maintain or comply with any permit, license or other approval required under any Environmental Law, (B) has become subject to any Environmental Liability, (C) has received notice of any claim with respect to any Environmental Liability or (D) knows of any basis for any Environmental Liability.

(b) Since the date of this Agreement, there has been no change in the status of the Disclosed Matters that, individually or in the aggregate, has resulted in, or would reasonably be expected to result in Material Adverse Effect.

SECTION 3.07. Compliance with Laws and Agreements. Each Loan Party and its Subsidiaries is in compliance with (i) all Requirements of Law applicable to it or its property and (ii) all indentures, agreements and other instruments binding upon it or its property, except where the failure to do so, individually or in the aggregate, would not reasonably be expected to result in a Material Adverse Effect. No Default has occurred and is continuing.

SECTION 3.08. Investment Company Status. No Loan Party nor any of their Subsidiaries is an "investment company" as defined in, or subject to regulation under, the Investment Company Act of 1940.

SECTION 3.09. Taxes. Each Loan Party and its Subsidiaries has timely filed or caused to be filed all Tax returns and reports required to have been filed and has paid or caused to be paid all Taxes required to have been paid by it, except (a) Taxes that are being contested in good faith by appropriate proceedings and for which such Loan Party or such Subsidiary, as applicable, has set aside on its books adequate reserves or (b) to the extent that the failure to do so would not reasonably be expected to result in a Material Adverse Effect.

SECTION 3.10. ERISA. No ERISA Event has occurred or is reasonably expected to occur that, when taken together with all other such ERISA Events for which liability is reasonably expected to occur, would reasonably be expected to result in a Material Adverse Effect. The present value of all accumulated benefit obligations under each Plan (based on the assumptions used for purposes of Statement of Financial Accounting Standards No. 87) did not, as of the date of the most recent financial statements reflecting such amounts, exceed the fair market value of the assets of such Plan by an amount that would reasonably be expected to result in a Material Adverse Effect, and the present value of all accumulated benefit obligations of all underfunded Plans (based on the assumptions used for purposes of Statement of Financial Accounting Standards No. 87 or subsequent recodification thereof, as applicable) did not, as of the date of the most recent financial statements reflecting such amounts, exceed the fair market value of the assets of all such underfunded Plans by an amount that would reasonably be expected to result in a Material Adverse Effect.

SECTION 3.11. Disclosure. (23) None of the reports, financial statements, certificates or other written information furnished by or on behalf of the Borrower to the Administrative Agent or any Lender in connection with the negotiation of this Agreement or delivered hereunder (as modified or supplemented by other information so furnished) contains any material misstatement of fact or omits to state any material fact necessary to make the statements therein, in the light of the circumstances under which they were made, not misleading in any material respect; provided that, with respect to projected financial information, the Borrower represents only that such information was prepared in good faith based upon assumptions believed by it to be reasonable at the time (it being recognized that such projections are not to be viewed as facts and are subject to significant uncertainties and contingencies, which are beyond the Borrower's control, that no assurance can be given that any particular financial projections will be realized, that actual results may differ from projected results and that such differences may be material).

(a) As of the Restatement Effective Date, to the best knowledge of the Borrower, the information included in the Beneficial Ownership Certification provided on or prior to the Restatement Effective Date to any Lender in connection with this Agreement is true and correct in all respects.

SECTION 3.12. Anti-Corruption Laws and Sanctions. The Loan Parties have implemented and maintain in effect policies and procedures designed to ensure compliance by the Loan Parties, their Subsidiaries and their respective directors, officers, employees and agents with Anti-Corruption Laws and applicable Sanctions, and the Loan Parties, their Subsidiaries and their respective officers and directors and to the knowledge of any Loan Party its employees and agents, are in compliance with Anti-Corruption Laws

and applicable Sanctions in all material respects. None of (a) any Loan Party, any Subsidiary or any of their respective directors, officers or employees, or (b) to the knowledge of any Loan Party, any agent of any Loan Party or any of their Subsidiaries that will act in any capacity in connection with or benefit from the credit facility established hereby, is a Sanctioned Person. No Transaction will violate any Anti-Corruption Law or applicable Sanctions.

SECTION 3.13. EEA Financial Institutions. No Loan Party is an EEA Financial Institution.

SECTION 3.14. Capitalization and Subsidiaries. Schedule 3.14 sets forth as of the Restatement Effective Date (a) a correct and complete list of the name and relationship to the Borrower of each Subsidiary, (b) a true and complete listing of each class of each Loan Parties' (other than the Borrower) authorized Equity Interests, of which all of such issued Equity Interests are validly issued, outstanding, fully paid and non-assessable, and owned beneficially and of record by the Persons identified on Schedule 3.14, and (c) the type of entity of each Loan Party and each of their Subsidiaries. All of the issued and outstanding Equity Interests owned by any Loan Party have been (to the extent such concepts are relevant with respect to such ownership interests) duly authorized and issued and are fully paid and non-assessable.

SECTION 3.15. Employment Matters. As of the Restatement Effective Date, there are no strikes, lockouts or slowdowns against any Loan Party or any Subsidiary pending or, to the knowledge of any Loan Party, threatened. The hours worked by and payments made to employees of the Loan Parties and their Subsidiaries have not been in violation in any material respect of the Fair Labor Standards Act or any other applicable federal, state, local or foreign law dealing with such matters.

SECTION 3.16. Federal Reserve Regulations. No part of the proceeds of any Loan or Letter of Credit has been used or will be used, whether directly or indirectly, for any purpose that entails a violation of any of the Regulations of the Board, including Regulations T, U and X.

SECTION 3.17. Use of Proceeds. The proceeds of the Loans and the Letters of Credit will be used as set forth in Section 5.08.

SECTION 3.18. Security Interest in Collateral. The provisions of this Agreement and the other Loan Documents create legal and valid Liens on all the Collateral in favor of the Administrative Agent, for the benefit of the Secured Parties, and such Liens constitute perfected and continuing Liens on the Collateral, securing the Secured Obligations, enforceable against the applicable Loan Party and all third parties, and having priority over all other Liens on the Collateral except in the case of (a) Permitted Encumbrances, to the extent any such Permitted Encumbrances would have priority over the Liens in favor of the Administrative Agent pursuant to any applicable law or agreement and (b) Liens perfected only by possession (including possession of any certificate of title), to the extent the Administrative Agent has not obtained or does not maintain possession of such Collateral.

SECTION 3.19. Plan Assets; Prohibited Transactions. None of the Loan Parties or any of their Subsidiaries is an entity deemed to hold "plan assets" (within the meaning of the Plan Asset Regulations), and neither the execution, delivery nor performance of the transactions contemplated under this Agreement, including the making of any Loan and the issuance of any Letter of Credit hereunder, will give rise to a non-exempt prohibited transaction under Section 406 of ERISA or Section 4975 of the Code.

ARTICLE IV
Conditions

SECTION 4.01. Restatement Effective Date. The obligations of the Lenders to make Loans and of the Issuing Bank to issue Letters of Credit hereunder shall not become effective until the date on which each of the following conditions is satisfied (or waived in accordance with Section 9.02):

(a) Credit Agreement and Loan Documents. The Administrative Agent (or its counsel) shall have received (i) from each party hereto either (A) a counterpart of this Agreement signed on behalf of such party or (B) written evidence satisfactory to the Administrative Agent (which may include fax or other electronic transmission of a signed signature page of this Agreement) that such party has signed a counterpart of this Agreement and (ii) duly executed copies of the Loan Documents to be executed on the Restatement Effective Date, including any promissory notes requested by a Lender pursuant to Section 2.10 payable to the order of each such requesting Lender.

(b) Lien Searches. The Administrative Agent shall have received the results of a recent Lien search in the jurisdiction of organization of each Loan Party and each jurisdiction where assets of the Loan Parties are located, and such search shall reveal no Liens on any of the assets of the Loan Parties except for Liens permitted by Section 6.02 or discharged on or prior to the Restatement Effective Date pursuant to a pay-off letter or other documentation satisfactory to the Administrative Agent.

(c) Filings, Registrations and Recordings. Each document (including any Uniform Commercial Code financing statement) required by the Collateral Documents or under law or reasonably requested by the Administrative Agent to be filed, registered or recorded in order to create in favor of the Administrative Agent, for the benefit of the Secured Parties, a perfected Lien on the Collateral described therein, prior and superior in right to any other Person (other than with respect to Liens expressly permitted by Section 6.02), shall be in proper form for filing, registration or recordation.

(d) Pledged Equity Interests; Stock Powers; Pledged Notes. The Administrative Agent shall have received (i) the certificates representing the Equity Interests required to be pledged pursuant to the Security Agreement on the Restatement Effective Date, together with an undated stock power for each such certificate executed in blank by a duly authorized officer of the pledgor thereof and (ii) each promissory note (if any) pledged to the Administrative Agent pursuant to the Security Agreement endorsed (without recourse) in blank (or accompanied by an executed transfer form in blank) by the pledgor thereof.

(e) Closing Certificates; Certified Certificate of Incorporation; Good Standing Certificates. The Administrative Agent shall have received (i) a certificate of each Loan Party, dated the Restatement Effective Date and executed by its secretary or assistant secretary, which shall (A) certify the resolutions of its Board of Directors, members or other body authorizing the execution, delivery and performance of the Loan Documents to which it is a party, (B) identify by name and title and bear specimen signatures of the officers of such Loan Party authorized to sign the Loan Documents to which it is a party and, in the case of the Borrower, its Financial Officers, and (C) contain appropriate attachments, including the charter, articles or certificate of organization or incorporation of each Loan Party certified by the relevant authority of the jurisdiction of organization of such Loan Party and a true and correct copy of its bylaws or operating, management or partnership agreement, or other organizational or governing documents, and (ii) a good standing certificate for each Loan Party from its jurisdiction of organization.

(f) No Default Certificate. The Administrative Agent shall have received a certificate confirming compliance with the conditions set forth in paragraphs (a) and (b) of Section 4.02 dated the Restatement Effective Date and signed by the president, a vice president or a Financial Officer of the Borrower.

(g) Legal Opinion. The Administrative Agent shall have received a favorable written opinion (addressed to the Administrative Agent and the Lenders and dated the Restatement Effective Date) of Fenwick & West LLP, counsel for the Loan Parties, and covering such other matters relating to the Loan Parties, this Agreement or the Transactions as the Required Lenders shall reasonably request. Each Loan Party hereby requests such counsel to deliver such opinion.

(h) Insurance. The Administrative Agent shall have received insurance certificates and endorsements for all insurance of the Borrower and the other Loan Parties as the Administrative Agent shall request naming the Administrative Agent, on behalf of the Lenders, as additional insured or lenders loss payee (or similar designation), as applicable, in form, scope and substance satisfactory to the Administrative Agent, and otherwise in compliance with the terms of Section 5.05 of this Agreement and Section 4.12 of the Security Agreement.

(i) Fees. The Administrative Agent and Lead Arrangers shall have received all fees and other amounts due and payable on or prior to the Restatement Effective Date, including, to the extent invoiced on or prior to the Restatement Effective Date, reimbursement or payment of all out-of-pocket expenses required to be reimbursed or paid by the Borrower hereunder.

(j) USA PATRIOT Act, Etc. (i) The Administrative Agent shall have received, (x) at least five (5) days prior to the Restatement Effective Date, all documentation and other information regarding the Borrower requested in connection with applicable "know your customer" and anti-money laundering rules and regulations, including the USA PATRIOT Act, to the extent requested in writing of the Borrower at least ten (10) days prior to the Restatement Effective Date, and (y) a properly completed and signed IRS Form W-8 or W-9, as applicable, for each Loan Party, and (ii) to the extent the Borrower qualifies as a "legal entity customer" under the Beneficial Ownership Regulation, at least five (5) days prior to the Restatement Effective Date, any Lender that has requested, in a written notice to the Borrower at least (10) days prior to the Restatement Effective Date, a Beneficial Ownership Certification in relation to the Borrower shall have received such Beneficial Ownership Certification (provided that, upon the execution and delivery by such Lender of its signature page to this Agreement, the condition set forth in this clause (ii) shall be deemed to be satisfied).

The Administrative Agent shall notify the Borrower and the Lenders of the Restatement Effective Date, and such notice shall be conclusive and binding. Notwithstanding the foregoing, the obligations of the Lenders to make Loans and of the Issuing Bank to issue Letters of Credit hereunder shall not become effective unless each of the foregoing conditions is satisfied (or waived pursuant to Section 9.02) at or prior to 3:00 p.m., New York City time, on December 31, 2018 (and, in the event such conditions are not so satisfied or waived, the Commitments shall terminate at such time).

SECTION 4.02. Each Credit Event. The obligation of each Lender to make a Loan on the occasion of any Borrowing (other than a Borrowing consisting solely of a conversion of Loans of one Type to another Type or a continuation of a Eurodollar Loan following the expiration of the applicable Interest Period), and of the Issuing Bank to issue, amend, renew or extend any Letter of Credit, is subject to the satisfaction of the following conditions:

(a) The representations and warranties of the Loan Parties set forth in the Loan Documents shall be true and correct in all material respects (without duplication of any materiality qualifiers set forth

therein) on and as of the date of such Borrowing or the date of issuance, amendment, renewal or extension of such Letter of Credit, as applicable (unless such representation and warranty relates to an earlier date, then such representation and warranty shall be true and correct in all material respects (without duplication of any materiality qualifiers set forth therein) as of such earlier date).

(b) At the time of and immediately after giving effect to such Borrowing or the issuance, amendment, renewal or extension of such Letter of Credit, as applicable, no Default shall have occurred and be continuing.

Each Borrowing and each issuance, amendment, renewal or extension of a Letter of Credit shall be deemed to constitute a representation and warranty by the Borrower on the date thereof as to the matters specified in paragraphs (a) and (b) of this Section.

Notwithstanding the failure to satisfy the conditions precedent set forth in paragraphs (a) or (b) of this Section, unless otherwise directed by the Required Lenders, the Administrative Agent may, but shall have no obligation to, continue to make Loans and an Issuing Bank may, but shall have no obligation to, issue, amend, renew or extend, or cause to be issued, amended, renewed or extended, any Letter of Credit for the ratable account and risk of Lenders from time to time if the Administrative Agent believes that making such Loans or issuing, amending, renewing or extending, or causing the issuance, amendment, renewal or extension of, any such Letter of Credit is in the best interests of the Lenders.

ARTICLE V
Affirmative Covenants

Until the Commitments have expired or been terminated and the principal of and interest on each Loan and all fees payable hereunder shall have been paid in full and all Letters of Credit shall have expired or terminated , in each case, without any pending draw, and all LC Disbursements shall have been reimbursed, the Borrower covenants and agrees with the Lenders that:

SECTION 5.01. Financial Statements; Ratings Change and Other Information. The Borrower will furnish to the Administrative Agent and each Lender:

(a) within ninety (90) days after the end of each fiscal year of the Borrower, its audited consolidated balance sheet and related statements of operations, stockholders' equity and cash flows as of the end of and for such year, setting forth in each case in comparative form the figures for the previous fiscal year, all audited by Ernst & Young LLP or other independent public accountants of recognized national standing (without a "going concern" or like qualification commentary or exception and without any qualification or exception as to the scope of such audit) to the effect that such consolidated financial statements present fairly in all material respects the financial condition and results of operations of the Borrower and its consolidated Subsidiaries on a consolidated basis in accordance with GAAP consistently applied, accompanied by any management letter prepared by said accountants;

(b) within forty-five (45) days after the end of each of the first three fiscal quarters of each fiscal year of the Borrower, its consolidated balance sheet and related statements of operations and cash flows as of the end of and for such fiscal quarter and the then elapsed portion of the fiscal year, setting forth in each case in comparative form the figures for the corresponding period or periods of (or, in the case of the balance sheet, as of the end of) the previous fiscal year, all certified by one of its Financial Officers as presenting fairly in all material respects the financial condition and results of operations of the Borrower

and its consolidated Subsidiaries on a consolidated basis in accordance with GAAP consistently applied, subject to normal year-end audit adjustments and the absence of footnotes;

(c) concurrently with any delivery of financial statements under clause (a) or (b) above, a certificate of a Financial Officer of the Borrower (i) certifying as to whether a Default has occurred and, if a Default has occurred, specifying the details thereof and any action taken or proposed to be taken with respect thereto, (ii) setting forth reasonably detailed calculations demonstrating compliance with Section 6.13 and (iii) stating whether any change in GAAP or in the application thereof has occurred since the date of the audited financial statements referred to in Section 3.04 and, if any such change has occurred, specifying the effect of such change on the financial statements accompanying such certificate;

(d) as soon as available, but in any event no later than 100 days following the end of, each fiscal year of the Borrower, a copy of the Borrower's plan and forecast, in a form consistent with the Borrower's past practice (the "***Projections***");

(e) promptly after the same become publicly available, copies of all periodic and other reports, proxy statements and other materials filed by the Borrower or any Subsidiary with the SEC, or any Governmental Authority succeeding to any or all of the functions of said Commission, or with any national securities exchange, or distributed by the Borrower to its shareholders generally, as the case may be;

(f) promptly following any request therefor, such other information regarding the operations, business affairs and financial condition of the Borrower or any of its Subsidiaries, or compliance with the terms of this Agreement, as the Administrative Agent or any Lender may reasonably request; and

(g) promptly following any request therefor, such information and documentation reasonably requested by the Administrative Agent or any Lender, and reasonably available to the Borrower, for purposes of compliance with applicable "know your customer" and anti-money laundering rules and regulations, including the USA PATRIOT Act and the Beneficial Ownership Regulation.

Information required to be delivered pursuant to Section 5.01(a), 5.01(b) or 5.01(e) shall be deemed to have been delivered if such information, or one or more annual, quarterly or current reports containing such information, shall have been posted by the Administrative Agent on the Platform, on the website of the SEC at http://www.sec.gov or on the website of the Borrower. Information required to be delivered pursuant to this Section 5.01 may also be delivered by electronic communications pursuant to procedures approved by the Administrative Agent. Each Lender shall be solely responsible for timely accessing posted documents and maintaining its copies of such documents.

SECTION 5.02. Notices of Material Events. The Borrower will furnish to the Administrative Agent and each Lender prompt written notice of a Financial Officer of the Borrower becoming aware of the following:

(a) the occurrence of any Default;

(b) the filing or commencement of any action, suit or proceeding by or before any arbitrator or Governmental Authority against or affecting any Loan Party or any Affiliate thereof that, if adversely determined, could reasonably be expected to result in a Material Adverse Effect;

(c) the occurrence of any ERISA Event that, alone or together with any other ERISA Events that have occurred, could reasonably be expected to result in liability of the Loan Parties and their Subsidiaries in an aggregate amount that could reasonably be expected to result in a Material Adverse Effect; and

(d) any other development that results in, or would reasonably be expected to result in, a Material Adverse Effect.

Each notice delivered under this Section shall be accompanied by a statement of a Financial Officer or other executive officer of the Borrower setting forth the details of the event or development requiring such notice and any action taken or proposed to be taken with respect thereto.

SECTION 5.03. Existence; Conduct of Business. The Borrower will, and will cause each of its Subsidiaries to, do or cause to be done all things necessary to preserve, renew and keep in full force and effect its legal existence and the rights, Governmental Authorizations, privileges and franchises material to the conduct of its business except where the failure to do so would not reasonably be expected to have a Material Adverse Effect; provided that the foregoing shall not prohibit any merger, consolidation, Division, liquidation or dissolution permitted under Section 6.03.

SECTION 5.04. Payment of Obligations. The Borrower will, and will cause each of its Subsidiaries to, pay its obligations, including Tax liabilities, that, if not paid, could result in a Material Adverse Effect before the same shall become delinquent or in default, except where (a) the validity or amount thereof is being contested in good faith by appropriate proceedings, (b) the Borrower or such Subsidiary has set aside on its books adequate reserves with respect thereto in accordance with GAAP and (c) the failure to make payment pending such contest would not reasonably be expected to result in a Material Adverse Effect.

SECTION 5.05. Maintenance of Properties; Insurance. The Borrower will, and will cause each of its Subsidiaries to, (a) except as otherwise permitted pursuant to this Agreement keep and maintain all property material to the conduct of its business in good working order and condition, ordinary wear and tear excepted, and (b) maintain, with financially sound and reputable insurance companies, insurance in such amounts and against such risks as are customarily maintained by companies engaged in the same or similar businesses operating in the same or similar locations. The Borrower will furnish to the Lenders, upon request of the Administrative Agent, but no less frequently than annually, information in reasonable detail as to the insurance so maintained.

SECTION 5.06. Books and Records; Inspection Rights. The Borrower will, and will cause each of its Subsidiaries to, keep proper books of record and account in which full, true and correct entries in all material respects are made of all dealings and transactions in relation to its business and activities. The Borrower will, and will cause each of its Subsidiaries to, permit any representatives designated by the Administrative Agent, upon reasonable prior notice, to visit and inspect its properties, to examine and make extracts from its books and records, and to discuss its affairs, finances and condition with its officers and independent accountants (at which the Borrower shall have the right to be present), all at such reasonable times and as often as reasonably requested (and, if requested, any Lender may accompany the Agent on such inspection, which shall be at such Lender's sole expense unless an Event of Default has occurred and is continuing); provided, however, that unless an Event of Default has occurred and is continuing, any such inspection shall be limited to once in any calendar year.

SECTION 5.07. Compliance with Laws. The Borrower will, and will cause each of its Subsidiaries to, comply with all laws, rules, regulations and orders of any Governmental Authority applicable to it or its property, except where the failure to do so, individually or in the aggregate, would not reasonably be expected to result in a Material Adverse Effect. The Borrower will maintain in effect and enforce policies and procedures designed to ensure compliance by the Borrower, its Subsidiaries and their respective directors, officers, employees and agents with Anti-Corruption Laws and applicable Sanctions.

SECTION 5.08. Use of Proceeds and Letters of Credit. The proceeds of the Loans and the Letters of Credit will be used only for general corporate purposes of the Borrower and its Subsidiaries including working capital, capital expenditures, acquisitions, dividends and share repurchases permitted hereunder. No part of the proceeds of any Loan will be used, whether directly or indirectly, for any purpose that entails a violation of any of the Regulations of the Board, including Regulations T, U and X. The Borrower will not request any Borrowing or Letter of Credit, and the Borrower shall not use, and shall procure that its Subsidiaries and its or their respective directors, officers, employees and agents shall not use, the proceeds of any Borrowing or Letter of Credit (A) in furtherance of an offer, payment, promise to pay, or authorization of the payment or giving of money, or anything else of value, to any Person in violation of any Anti-Corruption Laws, (B) for the purpose of funding, financing or facilitating any activities, business or transaction of or with any Sanctioned Person, or in any Sanctioned Country, to the extent such activities, business or transaction would be prohibited by Sanctions if conducted by a corporation incorporated in the United States or in a European Union member state, or (C) in any manner that would result in the violation of any Sanctions applicable to any party hereto.

SECTION 5.09. Accuracy of Information. The Borrower will ensure that any written information, including financial statements or other documents, furnished to the Administrative Agent or the Lenders in connection with this Agreement or any amendment or modification hereof or waiver hereunder contains no material misstatement of fact or omits to state any material fact necessary to make the statements therein, in the light of the circumstances under which they were made, not materially misleading, and the furnishing of such information shall be deemed to be a representation and warranty by the Borrower on the date thereof as to the matters specified in this Section 5.09; provided that, with respect to projected financial information, the Borrower will cause such projections to be prepared in good faith based upon assumptions believed to be reasonable at the time (it being recognized that such projections are not to be viewed as facts and are subject to significant uncertainties and contingencies, which are beyond the Borrower's control, that no assurance can be given that any particular financial projections will be realized, that actual results may differ from projected results and that such differences may be material).

SECTION 5.10. Additional Collateral; Further Assurances. (23) Subject to applicable law and the Collateral Documents, the Borrower shall cause (x) each Division Successor and (y) each wholly-owned domestic Subsidiary (other than any Excluded Subsidiary), in each case, formed or acquired after the date of this Agreement in accordance with the terms of this Agreement to become a Loan Party by executing one or more joinder agreements (or similar documents) as requested by Administrative Agent. Upon execution and delivery thereof, each such Person (i) shall become a Loan Guarantor and thereupon shall have all of the rights, benefits, duties, and obligations in such capacity under the Loan Documents and (ii) will grant Liens to the Administrative Agent, for the benefit of the Administrative Agent and the Secured Parties, in any property of such Loan Party which constitutes Collateral.

(a) Without limiting the foregoing, the Borrower will, and will cause each Loan Party to, execute and deliver, or cause to be executed and delivered, to the Administrative Agent such documents, agreements and instruments, and will take or cause to be taken such further actions (including the filing and recording of financing statements and other documents and such other actions or deliveries of the type required by Section 4.01, as applicable, including, without limitation, issuance of legal opinions), which may be required by law or which the Administrative Agent may, from time to time, reasonably request to carry out the terms and conditions of this Agreement and the other Loan Documents and to ensure perfection and priority of the Liens created or intended to be created by the Collateral Documents, all at the expense of the Borrower. The Borrower will cause (i) 100% of the issued and outstanding Equity Interests of each of its domestic Subsidiaries (other than Excluded Subsidiaries) and (ii) 65% of all issued and outstanding voting Equity Interests and 100% of the issued and outstanding nonvoting Equity Interests (which, for the

avoidance of doubt, is not convertible into voting Equity Interests) of each of its directly-owned foreign Subsidiaries and CFC Holdcos, in each case of clauses (i) and (ii) above, to be subject at all times to a first priority, perfected Lien in favor of the Administrative Agent pursuant to terms in the Loan Documents or as Administrative Agent may reasonably request (provided that this shall not be construed to constitute consent by the Administrative Agent or any of the Lenders to the establishment of any foreign Subsidiaries or the consummation of any other transaction not expressly permitted by the terms of this Agreement).

(b) If any assets which constitute or are required to constitute Collateral are acquired by any Loan Party after the Restatement Effective Date (other than assets constituting Collateral under the Security Agreement that become subject to the Lien in favor of the Administrative Agent upon acquisition thereof), the Borrower, on behalf of the Loan Parties, will notify the Administrative Agent thereof and cause such assets to be subjected to a Lien securing the Secured Obligations in connection with and at the time of acquisition thereof and will take, and cause each Loan Party to take, such actions as shall be necessary or reasonably requested by the Administrative Agent to grant and perfect such Liens, including actions described in Section 5.10(b), all at the expense of the Loan Parties. Administrative Agent may determine in its sole discretion whether or not to take any steps with respect to obtaining a security interest in or pledge or perfection of any Collateral if it determines that the cost thereof exceeds the practical benefit to the Secured Parties of the security afforded thereby.

(c) Each Loan Party agrees that each action required by Section 5.10(a) shall be completed not less than thirty (30) days after the formation or acquisition of a Subsidiary (or such longer period of time as designated by the Administrative Agent in its reasonable discretion).

(d) The parties hereto agree that if a Borrower who caused any Equity Interests in its domestic or foreign Subsidiaries to be subject to a first priority, perfected Lien in favor of the Administrative Agent per clauses (b) or (c) above and that Subsidiary subsequently is transferred in a manner permitted hereunder such that it is no longer a direct subsidiary of the Borrower, the Parties agree that the Lien on the Equity Interests of such Subsidiary shall be released upon consummation of the transfer.

SECTION 5.11. Intellectual Property. (23) The Borrower will, and will cause each of its Subsidiaries to, take all actions necessary to maintain and pursue each application, to obtain the relevant registration and to maintain the registration of each of its Patents, Trademarks and Copyrights (now or hereafter existing), including the filing of applications for renewal, affidavits of use, affidavits of noncontestability and opposition and interference and cancellation proceedings, unless the Borrower shall determine that such Patent, Trademark or Copyright is not material to the conduct of its business or operations or such failures to take such actions could not, individually or in the aggregate, reasonably be expected to result in a Material Adverse Effect.

(a) The Borrower will, and will cause each of its Subsidiaries to promptly sue for infringement, misappropriation or dilution and to recover any and all damages for such infringement, misappropriation or dilution to protect such Patent, Trademark or Copyright, unless the Borrower shall determine that such Patent, Trademark or Copyright is in no way material to the conduct of its business or operations or such infringement, misappropriation or dilution could not, individually or in the aggregate, reasonably be expected to result in a Material Adverse Effect. In the event that the Borrower or such Subsidiary institutes suit because any of its Patents, Trademarks or Copyrights is infringed upon, or misappropriated or diluted by a third party, such Person shall comply with Section 4.7 of the Security Agreement.

SECTION 5.12. Post-Closing Matters. On or prior to sixty (60) days following the Restatement Effective Date (or such later date as the Administrative Agent may agree in its sole discretion), the Borrower

shall cause its wholly-owned Subsidiaries, TypeZero Technologies, Inc., a Delaware corporation ("TypeZero"), and Dex Capital, LLC, a Delaware limited liability company ("Dex Capital"), to become Loan Parties by executing a joinder agreement as requested by Administrative Agent. Upon execution and delivery thereof, TypeZero and Dex Capital shall each (a) become a Loan Guarantor and thereupon shall have all of the rights, benefits, duties, and obligations in such capacity under the Loan Documents and (b) grant Liens to the Administrative Agent, for the benefit of the Administrative Agent and the Secured Parties, in any property of such Loan Party which constitutes Collateral.

ARTICLE VI
Negative Covenants

Until the Commitments have expired or terminated and the principal of and interest on each Loan and all fees payable hereunder have been paid in full and all Letters of Credit have expired or terminated, in each case, without any pending draw, and all LC Disbursements shall have been reimbursed, the Borrower covenants and agrees with the Lenders that:

SECTION 6.01. Indebtedness. The Borrower will not, and will not permit any of its Subsidiaries to, create, incur, assume or permit to exist any Indebtedness, except:

(a) (i) Indebtedness created hereunder or (ii) any other Secured Obligations;

(b) Indebtedness existing on the date hereof and set forth in Schedule 6.01 and extensions, amendments, refinancings, renewals and replacements of any such Indebtedness that do not increase the outstanding principal amount thereof or shorten the final maturity or weighted average life to maturity thereof;

(c) Indebtedness of the Borrower to any Subsidiary and of any Subsidiary to the Borrower or any other Subsidiary, provided that (i) Indebtedness of any Subsidiary that is not a Loan Party to the Borrower or any other Loan Party shall be subject to Section 6.04 and (ii) Indebtedness of any Loan Party to any Subsidiary that is not a Loan Party shall be subordinated to the Secured Obligations on terms reasonably satisfactory to the Administrative Agent;

(d) Guarantees by the Borrower of Indebtedness of any Subsidiary and by any Subsidiary of Indebtedness of the Borrower or any other Subsidiary, provided that (i) the Indebtedness so Guaranteed is permitted by this Section 6.01, (ii) Guarantees by the Borrower or any other Loan Party of Indebtedness of any Subsidiary that is not a Loan Party shall be subject to Section 6.04 and (iii) Guarantees permitted under this clause (d) shall be subordinated to the Secured Obligations on the same terms as the Indebtedness so Guaranteed is subordinated to the Secured Obligations;

(e) Indebtedness of the Borrower or any Subsidiary incurred to finance the acquisition, construction or improvement of any fixed or capital assets, including Capital Lease Obligations and any Indebtedness assumed in connection with the acquisition of any such assets or secured by a Lien on any such assets prior to the acquisition thereof, and extensions, renewals and replacements of any such Indebtedness that do not increase the outstanding principal amount thereof; provided that (i) such Indebtedness is incurred prior to or within one hundred eighty (180) days after such acquisition or the completion of such construction or improvement and (ii) the aggregate principal amount of Indebtedness permitted by this clause (e) shall not exceed the greater of $180,000,000 and 10% of the total consolidated assets of the Borrower and its Subsidiaries at any time outstanding;

(f) Indebtedness of the Borrower or any Subsidiary as an account party in respect of trade letters of credit; and

(g) other unsecured Indebtedness of the Borrower or any of its Subsidiaries (including, without limitation, any Indebtedness assumed in connection with an acquisition permitted hereunder), so long as, after giving effect thereto the Borrower is in pro forma compliance with each of the covenants contained in Section 6.13 and no Default or Event of Default shall have occurred and be continuing.

SECTION 6.02. Liens. The Borrower will not, and will not permit any of its Subsidiaries to, create, incur, assume or permit to exist any Lien on any property or asset (including trademarks, trade names, copyrights, patents and other Intellectual Property) now owned or hereafter acquired by it, or assign or sell any income or revenues (including accounts receivable) or rights in respect of any thereof, except:

(a) Permitted Encumbrances;

(b) any Lien on any property or asset of the Borrower or any Subsidiary existing on the date hereof and set forth in Schedule 6.02; provided that (i) such Lien shall not apply to any other property or asset of the Borrower or any Subsidiary and (ii) such Lien shall secure only those obligations which it secures on the date hereof and extensions, renewals and replacements thereof that do not increase the outstanding principal amount thereof;

(c) any Lien existing on any property or asset prior to the acquisition thereof by the Borrower or any Subsidiary or existing on any property or asset of any Person that becomes a Subsidiary after the date hereof prior to the time such Person becomes a Subsidiary; provided that (i) such Lien is not created in contemplation of or in connection with such acquisition or such Person becoming a Subsidiary, as the case may be, (ii) such Lien shall not apply to any other property or assets of the Borrower or any Subsidiary and (iii) such Lien shall secure only those obligations which it secures on the date of such acquisition or the date such Person becomes a Subsidiary, as the case may be and extensions, renewals and replacements thereof that do not increase the outstanding principal amount thereof; and

(d) Liens on fixed or capital assets acquired, constructed or improved by the Borrower or any Subsidiary; provided that (i) such security interests secure Indebtedness permitted by clause (e) of Section 6.01, (ii) such security interests and the Indebtedness secured thereby are incurred prior to or within one hundred eighty (180) days after such acquisition or the completion of such construction or improvement, (iii) the Indebtedness secured thereby does not exceed 80% of the cost of acquiring, constructing or improving such fixed or capital assets and (iv) such security interests shall not apply to any other property or assets of the Borrower or any Subsidiary.

(e) Liens of a collecting bank arising in the ordinary course of business under Section 4-208 of the UCC in effect in the relevant jurisdiction covering only the items being collected upon;

(f) Liens granted by a Subsidiary that is not a Loan Party in favor of the Borrower or another Loan Party in respect of Indebtedness owed by such Subsidiary;

(g) Liens, if any, in favor of the Issuing Bank to cash collateralize LC Exposure or otherwise secure the obligations of a Defaulting Lender to fund risk participations hereunder; and

(h) financing statements filed under the UCC of any jurisdiction for notice purposes in connection with any operating lease in respect of the amounts covered by such lease.

SECTION 6.03. Fundamental Changes. (23) The Borrower will not, and will not permit any of its Subsidiaries to, merge into or consolidate with any other Person, or permit any other Person to merge into or consolidate with it, consummate a Division as the Dividing Person or sell, transfer, lease or otherwise

dispose of (in one transaction or in a series of transactions) all or any substantial part of its assets, or all or substantially all of the stock of any of its Subsidiaries (in each case, whether now owned or hereafter acquired), or liquidate or dissolve, except that, if at the time thereof and immediately after giving effect thereto no Default shall have occurred and be continuing (i) any Subsidiary may merge into the Borrower in a transaction in which the Borrower is the surviving corporation, (ii) any Subsidiary may merge into any Loan Party in a transaction in which the surviving entity is a Loan Party or any Subsidiary that is not a Loan Party may merge into any other Subsidiary that is not a Loan Party, (iii) any Subsidiary may sell, transfer, lease or otherwise dispose of its assets to the Borrower or to another Loan Party and any Subsidiary that is not a Loan Party may sell, transfer, lease or otherwise dispose of its assets to any other Subsidiary that is not a Loan Party, (iv) any Subsidiary may liquidate or dissolve if the Borrower determines in good faith that such liquidation or dissolution is in the best interests of the Borrower and is not materially disadvantageous to the Lenders; provided that any such merger involving a Person that is not a wholly-owned Subsidiary immediately prior to such merger shall not be permitted unless also permitted by Section 6.04 and (v) any Subsidiary that is a limited liability company may consummate a Division as the Dividing Person if, immediately upon the consummation of the Division, the assets of the applicable Dividing Person are held by one or more Subsidiaries at such time so long as, in the case of a Division pursuant to which the Dividing Person is a Guarantor, any such Subsidiaries which hold such assets upon the consummation of such Division are Guarantors or become Guarantors concurrently with such Division.

(a) The Borrower will not, and will not permit any of its Subsidiaries to, engage to any material extent in any business other than businesses of the type conducted by the Borrower and its Subsidiaries on the Restatement Effective Date and any other businesses reasonably related or otherwise complimentary or similar thereto.

SECTION 6.04. Investments, Loans, Advances, Guarantees and Acquisitions. The Borrower will not, and will not permit any of its Subsidiaries to, purchase, hold or acquire (including pursuant to any merger, or as a Division Successor pursuant to the Division of, with any Person that was not a wholly owned Subsidiary prior to such merger or Division) any capital stock, evidences of indebtedness or other securities (including any option, warrant or other right to acquire any of the foregoing) of, make or permit to exist any loans or advances to, Guarantee any obligations of, or make or permit to exist any investment or any other interest in, any other Person, or purchase or otherwise acquire (in one transaction or a series of transactions) any assets of any other Person constituting a business unit, except:

(a) cash or Permitted Investments;

(b) investments (other than investments permitted under clauses (a) and (c) of this Section) existing on the Restatement Effective Date and set forth on Schedule 6.04 and any investment that replaces, refinances or refunds any investment made pursuant to this Section 6.04(b); provided that the amount of any such investment may be increased (x) as required by the terms of such investment as in existence on the date hereof or (y) as otherwise permitted hereunder;

(c) investments by the Borrower existing on the date hereof in the capital stock of its Subsidiaries;

(d) (i) loans or advances made by the Borrower to any Loan Party and made by any Loan Party to the Borrower or any other Loan Party, (ii) loans or advances made by any Subsidiary that is not a Loan Party to the Borrower or any Loan Party or to any non-Loan Party, (iii) loans or advances made by the Borrower or any Loan Party to any foreign Subsidiary, provided that the aggregate amount of such loans or

advances under this clause (iii) shall not exceed $50,000,000 for the fiscal year ending December 31, 2019 and each fiscal year ending thereafter;

(e) Guarantees constituting Indebtedness permitted by Section 6.01;

(f) other acquisitions, investments, loans or advancements made by the Loan Parties, so long as, after giving effect thereto (i) pro forma Senior Secured Leverage Ratio is less than or equal to (x) 2.00 to 1.00 or (y) if a Senior Secured Leverage Covenant Holiday is then in effect, 2.50 to 1.00, (ii) the Borrower is in pro forma compliance with each of the other covenants contained in Section 6.13, (iii) the Borrower shall have not less than $25,000,000 in the aggregate of (x) Borrowing Availability and (y) unrestricted domestic cash; and (iv) no Default or Event of Default shall have occurred and be continuing;

(g) other acquisitions, investments, loans or advancements made by the Loan Parties, so long as, after giving effect thereto (i) the Borrower shall have not less than $350,000,000 in the aggregate of (x) Borrowing Availability and (y) unrestricted domestic cash and (ii) no Default or Event of Default shall have occurred and be continuing;

(h) acquisitions or investments made by foreign Subsidiaries that are not Loan Parties in an aggregate amount not to exceed in any fiscal year the greater of (x) $90,000,000 in the aggregate, net of any returns on such investment to such foreign Subsidiary and (y) 5% of the total consolidated assets of the Borrower and its Subsidiaries at any time outstanding;

(i) notes payable, or stock or other securities issued by an account debtor to the Borrower or any Subsidiary pursuant to negotiated agreements with respect to settlement of such account debtor's accounts in the ordinary course of business, consistent with past practices;

(j) investments in the form of Swap Agreements permitted by Section 6.05;

(k) investments of any Person existing at the time such Person becomes a Subsidiary of the Borrower or consolidates or merges with the Borrower or any of the Subsidiaries so long as such investments were not made in contemplation of such Person becoming a Subsidiary or of such merger;

(l) investments constituting deposits described in clauses (c) and (d) of the definition of the term "Permitted Encumbrances";

(m) advances or extensions of credit to officers, directors and employees of the Borrower or any Subsidiaries made in the ordinary course of business and consistent with past practices for travel, entertainment, relocation and similar purposes up to a maximum of $10,000,000 in the aggregate at any one time outstanding;

(n) investments consisting of extensions of credit in the nature of accounts or notes receivable arising from the grant of trade credit in the ordinary course of business, and investments received in satisfaction or partial satisfaction thereof from financially troubled account debtors to the extent reasonably necessary in order to prevent or limit loss; and

(o) investments in the form of Indebtedness of, or equity interests in, foreign Subsidiaries that are not Loan Parties representing consideration for licenses to any rights to Intellectual Property outside of the United States so long as the Loan Party licensing such Intellectual Property retains ownership of such Intellectual Property, provided that the Borrower determine in good faith that any such license has been effected for fair value.

SECTION 6.05. Swap Agreements. The Borrower will not, and will not permit any of its Subsidiaries to, enter into any Swap Agreement, except (a) Swap Agreements entered into to hedge or mitigate risks to which the Borrower or any Subsidiary has actual exposure (other than those in respect of Equity Interests of the Borrower or any of its Subsidiaries), (b) Swap Agreements entered into in order to effectively cap, collar or exchange interest rates (from fixed to floating rates, from one floating rate to another floating rate or otherwise) with respect to any interest-bearing liability or investment of the Borrower or any Subsidiary and (c) the 2018 Call Spread.

SECTION 6.06. Restricted Payments; Certain Payments of Indebtedness.

(a) The Borrower will not, and will not permit any of its Subsidiaries to, declare or make, or agree to pay or make, directly or indirectly, any Restricted Payment, except (i) the Borrower may declare and pay dividends with respect to its Equity Interests payable solely in additional shares of its common stock, (ii) Subsidiaries of the Borrower may declare and pay dividends ratably with respect to their Equity Interests, (iii) the Borrower may make Restricted Payments pursuant to and in accordance with stock option plans or other benefit plans for management, directors or employees of the Borrower and its Subsidiaries, (iv) other Restricted Payments not to exceed $50,000,000 in the aggregate during any four consecutive fiscal quarters so long as after giving effect thereto (x) the Borrower shall have not less than $25,000,000 of Liquidity and (y) no Default or Event of Default shall have occurred and be continuing, (v) any other Restricted Payments so long as after giving effect thereto (w) the pro forma Total Leverage Ratio is less than or equal to 1.75 to 1.00, (x) the Borrower is in pro forma compliance with each of the covenants contained in Section 6.13, (y) the Borrower shall have not less than $25,000,000 of Liquidity and (z) no Default or Event of Default shall have occurred and be continuing, and (vi) any other Restricted Payments so long as after giving effect thereto (x) the Borrower shall have not less than $350,000,000 of Liquidity, (y) the Borrower is in pro forma compliance with each of the covenants contained in Section 6.13, and (z) no Default or Event of Default shall have occurred and be continuing; provided, however, that this Section 6.06 shall not prohibit the repurchase of Equity Interests pursuant to any accelerated stock repurchase or similar agreement so long as any payment made by the Borrower with respect to such repurchase is permitted under this Section 6.06(a) (without regard to this proviso) at the time of such payment.

(b) The Borrower will not, nor will it permit any Subsidiary to, pay or make, directly or indirectly, any cash payment of principal of any of the Convertible Notes, or any cash payment on account of the purchase, redemption, settlement on conversion, retirement, acquisition, cancellation or termination of any such Indebtedness, unless (i) the Borrower is in pro forma compliance with each of the covenants contained in Section 6.13, (ii) the Borrower shall have not less than $100,000,000 of Liquidity on a pro forma basis, (iii) no Default or Event of Default shall have occurred and be continuing, in each case of clauses (i), (ii) and (iii), on the date of such payment and giving effect thereto and (iv) in the case of redemption, the Borrower shall deliver to the Administrative Agent a certificate of a Financial Officer to effect that the Borrower is in compliance with the conditions set forth in clauses (i), (ii) and (iii) of this Section 6.06(b); provided that for the avoidance of doubt, this Section 6.06(b) shall not restrict (x) the payment of interest (including any additional interest payable upon specified events) on the Convertible Notes or (y) the settlement of conversion of Convertible Notes for securities, other property (excluding cash) or a combination thereof); provided further that clause (ii) of this Section 6.06(b) shall not apply in the case of any settlement on conversion for cash.

SECTION 6.07. Transactions with Affiliates. The Borrower will not, and will not permit any of its Subsidiaries to, sell, lease or otherwise transfer any property or assets to, or purchase, lease or otherwise acquire any property or assets from, or otherwise engage in any other transactions with, any of its Affiliates, except (a) in the ordinary course of business at prices and on terms and conditions not less favorable to the

Borrower or such Subsidiary than could be obtained on an arm's-length basis from unrelated third parties, (b) transactions between or among the Borrower and its wholly-owned Subsidiaries not involving any other Affiliate, excluding any transfer or other disposition of Intellectual Property rights of any Loan Party or any of their United States Subsidiaries which are material to the ongoing business of the Loan Parties and their Subsidiaries, taken as a whole, provided that licenses of such Intellectual Property shall be permitted so long as the Loan Party or United States Subsidiary licensing such Intellectual Property retains ownership thereof, and (c) any Restricted Payment permitted by Section 6.06.

SECTION 6.08. Restrictive Agreements. The Borrower will not, and will not permit any of its Subsidiaries to, directly or indirectly, enter into, incur or permit to exist any agreement or other arrangement that prohibits, restricts or imposes any condition upon (a) the ability of any Loan Party or any of their Subsidiaries to create, incur or permit to exist any Lien of the Administrative Agent or any Secured Party upon any of its property or assets, or (b) the ability of any Subsidiary of a Loan Party to pay dividends or other distributions with respect to any shares of its capital stock or to make or repay loans or advances to the Borrower or any other Loan Party or to Guarantee Indebtedness of the Borrower or any other Loan Party; provided that (i) the foregoing shall not apply to restrictions and conditions imposed by any Requirement of Law or by any Loan Document, (ii) the foregoing shall not apply to restrictions and conditions existing on the date hereof identified on Schedule 6.08 (but shall apply to any extension or renewal of, or any amendment or modification expanding the scope of, any such restriction or condition), (iii) the foregoing shall not apply to customary restrictions and conditions contained in agreements relating to the sale of a Subsidiary pending such sale, provided that such restrictions and conditions apply only to the Subsidiary that is to be sold and such sale is permitted hereunder, (iv) clause (a) of the foregoing shall not apply to restrictions or conditions imposed by any agreement relating to secured Indebtedness permitted by this Agreement if such restrictions or conditions apply only to the property or assets securing such Indebtedness and (v) clause (a) of the foregoing shall not apply to customary provisions in leases restricting the assignment thereof.

SECTION 6.09. Sale and Leaseback Transactions. The Borrower will not, and will not permit any of its Subsidiaries to, enter into any arrangement, directly or indirectly, whereby it shall sell or transfer any property, real or personal, used or useful in its business, whether now owned or hereafter acquired, and thereafter rent or lease such property or other property that it intends to use for substantially the same purpose or purposes as the property sold or transferred (a "***Sale and Leaseback Transaction***"). For the avoidance of doubt, customary "build to suit" transactions do not constitute a Sale and Leaseback Transaction hereunder.

SECTION 6.10. Amendment of Material Documents. The Borrower will not, and will not permit any of its Subsidiaries to, amend, modify or waive any of its rights under (a) any agreement relating to any Subordinated Indebtedness, or (b) its charter, articles or certificate of organization or incorporation and bylaws or operating, management or partnership agreement, or other organizational or governing documents, to the extent any such amendment, modification or waiver would be adverse to the Administrative Agent or the Lenders.

SECTION 6.11. Fiscal Year. The Borrower will not, and will not permit any of its Subsidiaries to, change its fiscal year to end on any date other than December 31 of each year.

SECTION 6.12. Anti-Corruption Laws and Sanctions. The Borrower will not, and will not permit any of its Subsidiaries to, fail to maintain in effect and enforce policies and procedures designed to ensure compliance by the Borrower, its Subsidiaries and their respective directors, officers, employees and agents with Anti-Corruption Laws and applicable Sanctions.

SECTION 6.13. Financial Covenants.

(a) Minimum Interest Coverage Ratio. The Borrower will not permit the Interest Coverage Ratio, for any period of four consecutive fiscal quarters ending on the last day of any fiscal quarter (commencing with the fiscal quarter ending December 31, 2018) to be less than 4.00 to 1.00.

(b) Maximum Senior Secured Leverage Ratio. The Borrower will not permit the Senior Secured Leverage Ratio, on the last day of any fiscal quarter (commencing with the fiscal quarter ending December 31, 2018) to be greater than 2.00 to 1.00. Notwithstanding the foregoing, in the event that the Borrower and/or one or more of its Subsidiaries makes an acquisition which is permitted hereunder with a total purchase price greater than $150,000,000 during the fiscal quarter then most recently ended, the maximum Senior Secured Leverage Ratio may be increased at the election of the Borrower to 2.50 to 1.00 for such fiscal quarter and for each of the three (3) subsequent fiscal quarters (a "***Senior Secured Leverage Covenant Holiday***"); provided however, the Borrower shall not be permitted to elect an additional Senior Secured Leverage Covenant Holiday until the Senior Secured Leverage Ratio has returned, after the Senior Secured Leverage Covenant Holiday, to a ratio of less than or equal to 2.00 to 1.00 for a period of four (4) full fiscal quarters.

ARTICLE VII
Events of Default

If any of the following events ("***Events of Default***") shall occur:

(a) the Borrower shall fail to pay any principal of any Loan or any reimbursement obligation in respect of any LC Disbursement when and as the same shall become due and payable, whether at the due date thereof or at a date fixed for prepayment thereof or otherwise;

(b) the Borrower shall fail to pay any interest on any Loan or any fee or any other amount (other than an amount referred to in clause (a) of this Article) payable under this Agreement or any other Loan Document, when and as the same shall become due and payable, and such failure shall continue unremedied for a period of three (3) Business Days;

(c) any representation or warranty made or deemed made by or on behalf of the Borrower or any Subsidiary in or in connection with this Agreement, any other Loan Document, or any amendment or modification hereof or thereof or waiver hereunder or thereunder, or in any report, certificate, financial statement or other document furnished pursuant to or in connection with this Agreement, any other Loan Document, or any amendment or modification hereof or thereof or waiver hereunder or thereunder, shall prove to have been incorrect in any material respect when made or deemed made;

(d) the Borrower shall fail to observe or perform any covenant, condition or agreement contained in Section 5.02, 5.03 (with respect to the Borrower's existence), 5.08, 5.12 or in Article VI;

(e) the Borrower or any other Loan Party shall fail to observe or perform any covenant, condition or agreement contained in this Agreement (other than those specified in clause (a), (b) or (d) of this Article) or any other Loan Document, and such failure shall continue unremedied for a period of thirty (30) days after notice thereof from the Administrative Agent to the Borrower (which notice will be given at the request of any Lender);

(f) any Loan Party or any of their Subsidiaries shall fail to make a principal payment in respect of any Material Indebtedness, when and as the same shall become due and payable (other than earn-out obligations to the extent such obligations are being contested in good faith and adequate reserves are maintained with respect thereto to the extent required by GAAP), after giving effect to any applicable grace or cure period;

(g) any event or condition occurs that results in any Material Indebtedness becoming due prior to its scheduled maturity or that enables or permits (with or without the giving of notice, the lapse of time or both) the holder or holders of any Material Indebtedness or any trustee or agent on its or their behalf to cause any Material Indebtedness to become due, or to require the prepayment, repurchase, redemption or defeasance thereof, prior to its scheduled maturity; provided that this clause (g) shall not apply to (i) secured Indebtedness that becomes due as a result of the voluntary sale or transfer of the property or assets securing such Indebtedness, (ii) any event or condition that gives a holder the right to convert any Convertible Note (other than an event of default under the Convertible Notes), (iii) any conversion of the Convertible Notes (and the settlement thereof, whether in securities, other property (excluding cash) or a combination thereof) or (iv) any purchase, redemption, retirement, settlement on conversion for cash, acquisition, cancellation or termination of any Convertible Notes that is permitted by Section 6.06(b);

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

(i) any Loan Party or any of their Subsidiaries shall (i) voluntarily commence any proceeding or file any petition seeking liquidation, reorganization or other relief under any federal, state or foreign bankruptcy, insolvency, receivership or similar law now or hereafter in effect, (ii) consent to the institution of, or fail to contest in a timely and appropriate manner, any proceeding or petition described in clause (h) of this Article, (iii) apply for or consent to the appointment of a receiver, trustee, custodian, sequestrator, conservator or similar official for any Loan Party or any of their Subsidiaries or for a substantial part of their assets, (iv) file an answer admitting the material allegations of a petition filed against it in any such proceeding, (v) make a general assignment for the benefit of creditors or (vi) take any action for the purpose of effecting any of the foregoing;

(j) any Loan Party or any of their Subsidiaries shall become unable, admit in writing its inability or fail generally to pay its debts as they become due;

(k) one or more judgments for the payment of money in an aggregate amount in excess of $25,000,000 (except to the extent covered by insurance) shall be rendered against any Loan Party, any of their Subsidiaries or any combination thereof and the same shall remain undischarged for a period of thirty (30) consecutive days during which execution shall not be effectively stayed, or any action shall be legally taken by a judgment creditor to attach or levy upon any assets of any Loan Party or any of their Subsidiaries to enforce any such judgment;

(l) an ERISA Event shall have occurred that, in the opinion of the Required Lenders, when taken together with all other ERISA Events that have occurred, could reasonably be expected to result in

liability of any Loan Party or any of their Subsidiaries in an aggregate amount that could reasonably be expected to result in a Material Adverse Effect;

(m) a Change in Control shall occur;

(n) except for expiration, termination or release in accordance with its terms, (i) the Loan Guaranty or any Obligation Guaranty shall fail to remain in full force or effect or (ii) any action shall be taken to discontinue or to assert the invalidity or unenforceability of the Loan Guaranty or any Obligation Guaranty, or any Guarantor shall deny in writing to the Administrative Agent that it has any further liability under the Loan Guaranty or any Obligation Guaranty to which it is a party;

(o) except as permitted by the terms of any Loan Document, (i) any Collateral Document shall for any reason fail to create a valid security interest in any Collateral purported to be covered thereby, or (ii) any Lien securing any Secured Obligation shall cease to be a perfected, first priority Lien;

(p) except for expiration, termination or release in accordance with its terms, any Collateral Document shall fail to remain in full force or effect or any action shall be taken by any Loan Party or any of their Subsidiaries to discontinue or to assert the invalidity or unenforceability of any Collateral Document; or

(q) any material provision of any Loan Document for any reason ceases to be valid, binding and enforceable (except solely as a result of applicable law) in accordance with its terms (or any Loan Party shall challenge the enforceability of any Loan Document or shall assert in writing that any material provision of any of the Loan Documents has ceased to be or otherwise is not valid, binding and enforceable in accordance with its terms);

then, and in every such event (other than an event with respect to the Borrower described in clause (h) or (i) of this Article), and at any time thereafter during the continuance of such event, the Administrative Agent may, and at the request of the Required Lenders shall, by notice to the Borrower, take either or both of the following actions, at the same or different times: (i) terminate the Commitments (including the Letter of Credit Commitments), and thereupon the Commitments shall terminate immediately, (ii) declare the Loans then outstanding to be due and payable in whole (or in part, in which case any principal not so declared to be due and payable may thereafter be declared to be due and payable), and thereupon the principal of the Loans so declared to be due and payable, together with accrued interest thereon and all fees and other obligations of the Borrower accrued hereunder, shall become due and payable immediately, without presentment, demand, protest or other notice of any kind, all of which are hereby waived by the Borrower, and (iii) require cash collateral for the LC Exposure in accordance with Section 2.06(j); and in case of any event with respect to the Borrower described in clause (h) or (i) of this Article, the Commitments shall automatically terminate and the principal of the Loans then outstanding and cash collateral for the LC Exposure, together with accrued interest thereon and all fees and other obligations of the Borrower accrued hereunder, shall automatically become due and payable, without presentment, demand, protest or other notice of any kind, all of which are hereby waived by the Borrower.

In addition to any other rights and remedies granted to the Administrative Agent and the Lenders in the Loan Documents, the Administrative Agent on behalf of the Lenders may exercise all rights and remedies of a secured party under the New York Uniform Commercial Code or any other applicable law.

ARTICLE VIII
The Administrative Agent; Credit Bidding

SECTION 8.01. The Administrative Agent.

(a) Each Lender, on behalf of itself and any of its Affiliates that are Secured Parties and each Issuing Bank hereby irrevocably appoints the entity named as Administrative Agent in the heading of this Agreement and its successors and assigns to serve as the administrative agent and collateral agent under the Loan Documents and each Lender and each Issuing Bank authorizes the Administrative Agent to take such actions as agent on its behalf and to exercise such powers under this Agreement and the other Loan Documents as are delegated to the Administrative Agent under such agreements and to exercise such powers as are reasonably incidental thereto. In addition, to the extent required under the laws of any jurisdiction other than within the United States, each Lender and each Issuing Bank hereby grants to the Administrative Agent any required powers of attorney to execute and enforce any Collateral Document governed by the laws of such jurisdiction on such Lender's or such Issuing Bank's behalf. Without limiting the foregoing, each Lender and each Issuing Bank hereby authorizes the Administrative Agent to execute and deliver, and to perform its obligations under, each of the Loan Documents to which the Administrative Agent is a party, and to exercise all rights, powers and remedies that the Administrative Agent may have under such Loan Documents

(b) As to any matters not expressly provided for herein and in the other Loan Documents (including enforcement or collection), the Administrative Agent shall not be required to exercise any discretion or take any action, but shall be required to act or to refrain from acting (and shall be fully protected in so acting or refraining from acting) upon the written instructions of the Required Lenders (or such other number or percentage of the Lenders as shall be necessary, pursuant to the terms in the Loan Documents), and, unless and until revoked in writing, such instructions shall be binding upon each Lender and each Issuing Bank; provided, however, that the Administrative Agent shall not be required to take any action that (i) the Administrative Agent in good faith believes exposes it to liability unless the Administrative Agent receives an indemnification and is exculpated in a manner satisfactory to it from the Lenders and the Issuing Banks with respect to such action or (ii) is contrary to this Agreement or any other Loan Document or applicable law, including any action that may be in violation of the automatic stay under any requirement of law relating to bankruptcy, insolvency or reorganization or relief of debtors or that may effect a forfeiture, modification or termination of property of a Defaulting Lender in violation of any requirement of law relating to bankruptcy, insolvency or reorganization or relief of debtors; provided, further, that the Administrative Agent may seek clarification or direction from the Required Lenders prior to the exercise of any such instructed action and may refrain from acting until such clarification or direction has been provided. Except as expressly set forth in the Loan Documents, the Administrative Agent shall not have any duty to disclose, and shall not be liable for the failure to disclose, any information relating to the Borrower, any other Loan Party, any Subsidiary or any Affiliate of any of the foregoing that is communicated to or obtained by the Person serving as Administrative Agent or any of its Affiliates in any capacity. Nothing in this Agreement shall require the Administrative Agent to expend or risk its own funds or otherwise incur any financial liability in the performance of any of its duties hereunder or in the exercise of any of its rights or powers if it shall have reasonable grounds for believing that repayment of such funds or adequate indemnity against such risk or liability is not reasonably assured to it.

(c) In performing its functions and duties hereunder and under the other Loan Documents, the Administrative Agent is acting solely on behalf of the Lenders and the Issuing Banks (except in limited circumstances expressly provided for herein relating to the maintenance of the Register), and its duties are entirely mechanical and administrative in nature. Without limiting the generality of the foregoing:

(i) the Administrative Agent does not assume and shall not be deemed to have assumed any obligation or duty or any other relationship as the agent, fiduciary or trustee of or for any Lender, Issuing Bank, any other Secured Party or holder of any other obligation other than as expressly set forth herein and in the other Loan Documents, regardless of whether a Default or an Event of Default has occurred and is continuing (and it is understood and agreed that the use of the term "agent" (or any similar term) herein or in any other Loan Document with reference to the Administrative Agent is not intended to connote any fiduciary duty or other implied (or express) obligations arising under agency doctrine of any applicable law, and that such term is used as a matter of market custom and is intended to create or reflect only an administrative relationship between contracting parties); additionally, each Lender agrees that it will not assert any claim against the Administrative Agent based on an alleged breach of fiduciary duty by the Administrative Agent in connection with this Agreement and/or the transactions contemplated hereby;

(ii) where the Administrative Agent is required or deemed to act as a trustee in respect of any Collateral over which a security interest has been created pursuant to a Loan Document expressed to be governed by the laws of the United States of America , or is required or deemed to hold any Collateral "on trust" pursuant to the foregoing, the obligations and liabilities of the Administrative Agent to the Secured Parties in its capacity as trustee shall be excluded to the fullest extent permitted by applicable law;

(iii) to the extent that English law is applicable to the duties of the Administrative Agent under any of the Loan Documents, Section 1 of the Trustee Act 2000 of the United Kingdom shall not apply to the duties of the Administrative Agent in relation to the trusts constituted by that Loan Document; where there are inconsistencies between the Trustee Act 1925 or the Trustee Act 2000 of the United Kingdom and the provisions of this Agreement or such Loan Document, the provisions of this Agreement shall, to the extent permitted by applicable law, prevail and, in the case of any inconsistency with the Trustee Act 2000 of the United Kingdom, the provisions of this Agreement shall constitute a restriction or exclusion for the purposes of that Act; and

(iv) nothing in this Agreement or any Loan Document shall require the Administrative Agent to account to any Lender for any sum or the profit element of any sum received by the Administrative Agent for its own account;

(d) The Administrative Agent may perform any of its duties and exercise its rights and powers hereunder or under any other Loan Document by or through any one or more sub-agents appointed by the Administrative Agent. The Administrative Agent and any such sub-agent may perform any of their respective duties and exercise their respective rights and powers through their respective Related Parties. The exculpatory provisions of this Article shall apply to any such sub-agent and to the Related Parties of the Administrative Agent and any such sub-agent, and shall apply to their respective activities pursuant to this Agreement. The Administrative Agent shall not be responsible for the negligence or misconduct of any sub-agent except to the extent that a court of competent jurisdiction determines in a final and non-appealable judgment that the Administrative Agent acted with gross negligence or willful misconduct in the selection of such sub-agent.

(e) None of any Syndication Agent, or any Arranger shall have obligations or duties whatsoever in such capacity under this Agreement or any other Loan Document and shall incur no liability hereunder or thereunder in such capacity, but all such persons shall have the benefit of the indemnities provided for hereunder.

(f) In case of the pendency of any proceeding with respect to any Loan Party under any federal, state or foreign bankruptcy, insolvency, receivership or similar law now or hereafter in effect, the Administrative Agent (irrespective of whether the principal of any Loan or any reimbursement obligation in respect of any LC Disbursement shall then be due and payable as herein expressed or by declaration or otherwise and irrespective of whether the Administrative Agent shall have made any demand on the Borrower) shall be entitled and empowered (but not obligated) by intervention in such proceeding or otherwise:

(i) to file and prove a claim for the whole amount of the principal and interest owing and unpaid in respect of the Loans, LC Disbursements and all other Obligations that are owing and unpaid and to file such other documents as may be necessary or advisable in order to have the claims of the Lenders, the Issuing Banks and the Administrative Agent (including any claim under Sections 2.12, 2.13, 2.15, 2.17 and 9.03) allowed in such judicial proceeding; and

(ii) to collect and receive any monies or other property payable or deliverable on any such claims and to distribute the same;

and any custodian, receiver, assignee, trustee, liquidator, sequestrator or other similar official in any such proceeding is hereby authorized by each Lender, each Issuing Bank and each other Secured Party to make such payments to the Administrative Agent and, in the event that the Administrative Agent shall consent to the making of such payments directly to the Lenders, the Issuing Banks or the other Secured Parties, to pay to the Administrative Agent any amount due to it, in its capacity as the Administrative Agent, under the Loan Documents (including under Section 9.03). Nothing contained herein shall be deemed to authorize the Administrative Agent to authorize or consent to or accept or adopt on behalf of any Lender or Issuing Bank any plan of reorganization, arrangement, adjustment or composition affecting the Obligations or the rights of any Lender or Issuing Bank or to authorize the Administrative Agent to vote in respect of the claim of any Lender or Issuing Bank in any such proceeding.

(g) The provisions of this Article are solely for the benefit of the Administrative Agent, the Lenders and the Issuing Banks, and, except solely to the extent of the Borrower's rights to consent pursuant to and subject to the conditions set forth in this Article, none of the Borrower or any Subsidiary, or any of their respective Affiliates, shall have any rights as a third party beneficiary under any such provisions. Each Secured Party, whether or not a party hereto, will be deemed, by its acceptance of the benefits of the Collateral and of the Guarantees of the Secured Obligations provided under the Loan Documents, to have agreed to the provisions of this Article.

SECTION 8.02. Administrative Agent's Reliance, Indemnification, Etc.

(a) Neither the Administrative Agent nor any of its Related Parties shall be (i) liable for any action taken or omitted to be taken by such party, the Administrative Agent or any of its Related Parties under or in connection with this Agreement or the other Loan Documents (x) with the consent of or at the request of the Required Lenders (or such other number or percentage of the Lenders as shall be necessary, or as the Administrative Agent shall believe in good faith to be necessary, under the circumstances as provided in the Loan Documents) or (y) in the absence of its own gross negligence or willful misconduct (such absence to be presumed unless otherwise determined by a court of competent jurisdiction by a final and non-appealable judgment) or (ii) responsible in any manner to any of the Lenders for any recitals, statements, representations or warranties made by any Loan Party or any officer thereof contained in this Agreement or any other Loan Document or in any certificate, report, statement or other document referred to or provided for in, or received by the Administrative Agent under or in connection with, this Agreement or any other Loan Document or

for the value, validity, effectiveness, genuineness, enforceability or sufficiency of this Agreement or any other Loan Document or for any failure of any Loan Party to perform its obligations hereunder or thereunder.

(b) The Administrative Agent shall be deemed not to have knowledge of any Default unless and until written notice thereof (stating that it is a "notice of default") is given to the Administrative Agent by the Borrower, a Lender or an Issuing Bank, and the Administrative Agent shall not be responsible for or have any duty to ascertain or inquire into (i) any statement, warranty or representation made in or in connection with any Loan Document, (ii) the contents of any certificate, report or other document delivered thereunder or in connection therewith, (iii) the performance or observance of any of the covenants, agreements or other terms or conditions set forth in any Loan Document or the occurrence of any Default, (iv) the sufficiency, validity, enforceability, effectiveness or genuineness of any Loan Document or any other agreement, instrument or document, (v) the satisfaction of any condition set forth in Article IV or elsewhere in any Loan Document, other than to confirm receipt of items (which on their face purport to be such items) expressly required to be delivered to the Administrative Agent or satisfaction of any condition that expressly refers to the matters described therein being acceptable or satisfactory to the Administrative Agent, or (vi) the creation, perfection or priority of Liens on the Collateral. Notwithstanding anything herein to the contrary, the Administrative Agent shall not be liable for, or be responsible for any claim, liability, loss, cost or expense suffered by the Borrower, any other Loan Party, any Subsidiary, any Lender or any Issuing Bank as a result of, any determination of the Revolving Exposure, any of the component amounts thereof or any portion thereof attributable to each Lender or Issuing Bank, or any Exchange Rate or Dollar Equivalent, except to the extent that a court of competent jurisdiction determines in a final and non-appealable judgment that the Administrative Agent acted with gross negligence or willful misconduct in making such determination.

(c) Without limiting the foregoing, the Administrative Agent (i) may treat the payee of any promissory note as its holder until such promissory note has been assigned in accordance with Section 9.04, (ii) may rely on the Register to the extent set forth in Section 9.04(b), (iii) may consult with legal counsel (including counsel to the Borrower), independent public accountants and other experts selected by it, and shall not be liable for any action taken or omitted to be taken in good faith by it in accordance with the advice of such counsel, accountants or experts, (iv) makes no warranty or representation to any Lender or Issuing Bank and shall not be responsible to any Lender or Issuing Bank for any statements, warranties or representations made by or on behalf of any Loan Party in connection with this Agreement or any other Loan Document, (v) in determining compliance with any condition hereunder to the making of a Loan, or the issuance of a Letter of Credit, that by its terms must be fulfilled to the satisfaction of a Lender or an Issuing Bank, may presume that such condition is satisfactory to such Lender or Issuing Bank unless the Administrative Agent shall have received notice to the contrary from such Lender or Issuing Bank sufficiently in advance of the making of such Loan or the issuance of such Letter of Credit and (vi) shall be entitled to rely on, and shall incur no liability under or in respect of this Agreement or any other Loan Document by acting upon, any notice, consent, certificate or other instrument or writing (which writing may be a fax, any electronic message, Internet or intranet website posting or other distribution) or any statement made to it orally or by telephone and believed by it to be genuine and signed or sent or otherwise authenticated by the proper party or parties (whether or not such Person in fact meets the requirements set forth in the Loan Documents for being the maker thereof).

SECTION 8.03. Posting of Communications.

(a) The Borrower agrees that the Administrative Agent may, but shall not be obligated to, make any Communications available to the Lenders and the Issuing Banks by posting the Communications on IntraLinks™, DebtDomain, SyndTrak, ClearPar or any other electronic system chosen by the Administrative Agent to be its electronic transmission system (the "Approved Electronic Platform").

(b) Although the Approved Electronic Platform and its primary web portal are secured with generally-applicable security procedures and policies implemented or modified by the Administrative Agent from time to time (including, as of the Restatement Effective Date, a user ID/password authorization system) and the Approved Electronic Platform is secured through a per-deal authorization method whereby each user may access the Approved Electronic Platform only on a deal-by-deal basis, each of the Lenders, each of the Issuing Banks and the Borrower acknowledges and agrees that the distribution of material through an electronic medium is not necessarily secure, that the Administrative Agent is not responsible for approving or vetting the representatives or contacts of any Lender that are added to the Approved Electronic Platform, and that there may be confidentiality and other risks associated with such distribution. Each of the Lenders, each of the Issuing Banks and the Borrower hereby approves distribution of the Communications through the Approved Electronic Platform and understands and assumes the risks of such distribution.

(c) THE APPROVED ELECTRONIC PLATFORM AND THE COMMUNICATIONS ARE PROVIDED "AS IS" AND "AS AVAILABLE". THE APPLICABLE PARTIES (AS DEFINED BELOW) DO NOT WARRANT THE ACCURACY OR COMPLETENESS OF THE COMMUNICATIONS, OR THE ADEQUACY OF THE APPROVED ELECTRONIC PLATFORM AND EXPRESSLY DISCLAIM LIABILITY FOR ERRORS OR OMISSIONS IN THE APPROVED ELECTRONIC PLATFORM AND THE COMMUNICATIONS. NO WARRANTY OF ANY KIND, EXPRESS, IMPLIED OR STATUTORY, INCLUDING ANY WARRANTY OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, NON-INFRINGEMENT OF THIRD PARTY RIGHTS OR FREEDOM FROM VIRUSES OR OTHER CODE DEFECTS, IS MADE BY THE APPLICABLE PARTIES IN CONNECTION WITH THE COMMUNICATIONS OR THE APPROVED ELECTRONIC PLATFORM. IN NO EVENT SHALL THE ADMINISTRATIVE AGENT, ANY ARRANGER, ANY SYNDICATION AGENT OR ANY OF THEIR RESPECTIVE RELATED PARTIES (COLLECTIVELY, "APPLICABLE PARTIES") HAVE ANY LIABILITY TO ANY LOAN PARTY, ANY LENDER, ANY ISSUING BANK OR ANY OTHER PERSON OR ENTITY FOR DAMAGES OF ANY KIND, INCLUDING DIRECT OR INDIRECT, SPECIAL, INCIDENTAL OR CONSEQUENTIAL DAMAGES, LOSSES OR EXPENSES (WHETHER IN TORT, CONTRACT OR OTHERWISE) ARISING OUT OF ANY LOAN PARTY'S OR THE ADMINISTRATIVE AGENT'S TRANSMISSION OF COMMUNICATIONS THROUGH THE INTERNET OR THE APPROVED ELECTRONIC PLATFORM.

"Communications" means, collectively, any notice, demand, communication, information, document or other material provided by or on behalf of any Loan Party pursuant to any Loan Document or the transactions contemplated therein which is distributed by the Administrative Agent, any Lender or any Issuing Bank by means of electronic communications pursuant to this Section, including through an Approved Electronic Platform.

(d) Each Lender and each Issuing Bank agrees that notice to it (as provided in the next sentence) specifying that Communications have been posted to the Approved Electronic Platform shall constitute effective delivery of the Communications to such Lender for purposes of the Loan Documents. Each Lender and Issuing Bank agrees (i) to notify the Administrative Agent in writing (which could be in the form of electronic communication) from time to time of such Lender's or Issuing Bank's (as applicable) email address to which the foregoing notice may be sent by electronic transmission and (ii) that the foregoing notice may be sent to such email address.

(e) Each of the Lenders, each of the Issuing Banks and the Borrower agrees that the Administrative Agent may, but (except as may be required by applicable law) shall not be obligated to, store the Communications on the Approved Electronic Platform in accordance with the Administrative Agent's generally applicable document retention procedures and policies.

(f) Nothing herein shall prejudice the right of the Administrative Agent, any Lender or any Issuing Bank to give any notice or other communication pursuant to any Loan Document in any other manner specified in such Loan Document.

SECTION 8.04. The Administrative Agent Individually. With respect to its Commitment, Loans and Letters of Credit, the Person serving as the Administrative Agent shall have and may exercise the same rights and powers hereunder and is subject to the same obligations and liabilities as and to the extent set forth herein for any other Lender or Issuing Bank, as the case may be. The terms "Issuing Banks", "Lenders", "Required Lenders" and any similar terms shall, unless the context clearly otherwise indicates, include the Administrative Agent in its individual capacity as a Lender, Issuing Bank or as one of the Required Lenders, as applicable. The Person serving as the Administrative Agent and its Affiliates may accept deposits from, lend money to, own securities of, act as the financial advisor or in any other advisory capacity for and generally engage in any kind of banking, trust or other business with, any Loan Party, any Subsidiary or any Affiliate of any of the foregoing as if such Person was not acting as the Administrative Agent and without any duty to account therefor to the Lenders or the Issuing Banks.

SECTION 8.05. Successor Administrative Agent.

(a) The Administrative Agent may resign at any time by giving 30 days' prior written notice thereof to the Lenders, the Issuing Banks and the Borrower, whether or not a successor Administrative Agent has been appointed. Upon any such resignation, the Required Lenders shall have the right to appoint a successor Administrative Agent. If no successor Administrative Agent shall have been so appointed by the Required Lenders, and shall have accepted such appointment, within thirty (30) days after the retiring Administrative Agent's giving of notice of resignation, then the retiring Administrative Agent may, on behalf of the Lenders and the Issuing Banks, appoint a successor Administrative Agent, which shall be a bank with an office in New York, New York or an Affiliate of any such bank. In either case, such appointment shall be subject to the prior written approval of the Borrower (which approval may not be unreasonably withheld and shall not be required while an Event of Default has occurred and is continuing). Upon the acceptance of any appointment as Administrative Agent by a successor Administrative Agent, such successor Administrative Agent shall succeed to, and become vested with, all the rights, powers, privileges and duties of the retiring Administrative Agent. Upon the acceptance of appointment as Administrative Agent by a successor Administrative Agent, the retiring Administrative Agent shall be discharged from its duties and obligations under this Agreement and the other Loan Documents. Prior to any retiring Administrative Agent's resignation hereunder as Administrative Agent, the retiring Administrative Agent shall take such action as may be reasonably necessary to assign to the successor Administrative Agent its rights as Administrative Agent under the Loan Documents.

(b) Notwithstanding paragraph (a) of this Section, in the event no successor Administrative Agent shall have been so appointed and shall have accepted such appointment within thirty (30) days after the retiring Administrative Agent gives notice of its intent to resign, the retiring Administrative Agent may give notice of the effectiveness of its resignation to the Lenders, the Issuing Banks and the Borrower, whereupon, on the date of effectiveness of such resignation stated in such notice, (i) the retiring Administrative Agent shall be discharged from its duties and obligations hereunder and under the other Loan Documents; provided that, solely for purposes of maintaining any security interest granted to the Administrative Agent under any Collateral Document for the benefit of the Secured Parties, the retiring Administrative Agent shall continue to be vested with such security interest as collateral agent for the benefit of the Secured Parties, and continue to be entitled to the rights set forth in such Collateral Document and Loan Document, and, in the case of any Collateral in the possession of the Administrative Agent, shall continue to hold such Collateral, in each case until such time as a successor Administrative Agent is appointed and accepts such appointment

in accordance with this Section (it being understood and agreed that the retiring Administrative Agent shall have no duty or obligation to take any further action under any Security Document, including any action required to maintain the perfection of any such security interest), and (ii) the Required Lenders shall succeed to and become vested with all the rights, powers, privileges and duties of the retiring Administrative Agent; provided that (A) all payments required to be made hereunder or under any other Loan Document to the Administrative Agent for the account of any Person other than the Administrative Agent shall be made directly to such Person and (B) all notices and other communications required or contemplated to be given or made to the Administrative Agent shall directly be given or made to each Lender and each Issuing Bank. Following the effectiveness of the Administrative Agent's resignation from its capacity as such, the provisions of this Article, Section 2.17(d) and Section 9.03, as well as any exculpatory, reimbursement and indemnification provisions set forth in any other Loan Document, shall continue in effect for the benefit of such retiring Administrative Agent, its sub-agents and their respective Related Parties in respect of any actions taken or omitted to be taken by any of them while the retiring Administrative Agent was acting as Administrative Agent and in respect of the matters referred to in the proviso under clause (a) above.

SECTION 8.06. Acknowledgements of Lenders and Issuing Banks.

(a) Each Lender represents that it is engaged in making, acquiring or holding commercial loans in the ordinary course of its business and that it has, independently and without reliance upon the Administrative Agent, any Arranger, any Syndication Agent, or any other Lender, or any of the Related Parties of any of the foregoing, and based on such documents and information as it has deemed appropriate, made its own credit analysis and decision to enter into this Agreement as a Lender, and to make, acquire or hold Loans hereunder. Each Lender also acknowledges that it will, independently and without reliance upon the Administrative Agent, any Arranger, any Syndication Agent, or any other Lender, or any of the Related Parties of any of the foregoing, and based on such documents and information (which may contain material, non-public information within the meaning of the United States securities laws concerning the Borrower and its Affiliates) as it shall from time to time deem appropriate, continue to make its own decisions in taking or not taking action under or based upon this Agreement, any other Loan Document or any related agreement or any document furnished hereunder or thereunder.

(b) Each Lender, by delivering its signature page to this Agreement on the Restatement Effective Date, or delivering its signature page to an Assignment and Assumption or any other Loan Document pursuant to which it shall become a Lender hereunder, shall be deemed to have acknowledged receipt of, and consented to and approved, each Loan Document and each other document required to be delivered to, or be approved by or satisfactory to, the Administrative Agent or the Lenders on the Restatement Effective Date or the effective date of any such Assignment and Assumption or any other Loan document pursuant to which it shall have become a Lender hereunder.

(c) Each Lender hereby agrees that (i) it has requested a copy of each Report prepared by or on behalf of the Administrative Agent; (ii) the Administrative Agent (A) makes no representation or warranty, express or implied, as to the completeness or accuracy of any Report or any of the information contained therein or any inaccuracy or omission contained in or relating to a Report and (B) shall not be liable for any information contained in any Report; (iii) the Reports are not comprehensive audits or examinations, and that any Person performing any field examination will inspect only specific information regarding the Loan Parties and will rely significantly upon the Loan Parties' books and records, as well as on representations of the Loan Parties' personnel and that the Administrative Agent undertakes no obligation to update, correct or supplement the Reports; (iv) it will keep all Reports confidential and strictly for its internal use, not share the Report with any Loan Party or any other Person except as otherwise permitted pursuant to this Agreement; and (v) without limiting the generality of any other indemnification provision contained in this Agreement,

(A) it will hold the Administrative Agent and any such other Person preparing a Report harmless from any action the indemnifying Lender may take or conclusion the indemnifying Lender may reach or draw from any Report in connection with any extension of credit that the indemnifying Lender has made or may make to the Borrower, or the indemnifying Lender's participation in, or the indemnifying Lender's purchase of, a Loan or Loans; and (B) it will pay and protect, and indemnify, defend, and hold the Administrative Agent and any such other Person preparing a Report harmless from and against, the claims, actions, proceedings, damages, costs, expenses, and other amounts (including reasonable attorneys' fees) incurred by the Administrative Agent or any such other Person as the direct or indirect result of any third parties who might obtain all or part of any Report through the indemnifying Lender.

SECTION 8.07. Collateral Matters.

(a) Except with respect to the exercise of setoff rights in accordance with Section 9.08 or with respect to a Secured Party's right to file a proof of claim in an insolvency proceeding, no Secured Party shall have any right individually to realize upon any of the Collateral or to enforce any Guarantee of the Secured Obligations, it being understood and agreed that all powers, rights and remedies under the Loan Documents may be exercised solely by the Administrative Agent on behalf of the Secured Parties in accordance with the terms thereof. In its capacity, the Administrative Agent is a "representative" of the Secured Parties within the meaning of the term "secured party" as defined in the UCC. In the event that any Collateral is hereafter pledged by any Person as collateral security for the Secured Obligations, the Administrative Agent is hereby authorized, and hereby granted a power of attorney, to execute and deliver on behalf of the Secured Parties any Loan Documents necessary or appropriate to grant and perfect a Lien on such Collateral in favor of the Administrative Agent on behalf of the Secured Parties.

(b) In furtherance of the foregoing and not in limitation thereof, no arrangements in respect of Banking Services, the obligations under which constitute Secured Obligations, and no Swap Agreement, the obligations under which constitute Secured Obligations, will create (or be deemed to create) in favor of any Secured Party that is a party thereto any rights in connection with the management or release of any Collateral or of the obligations of any Loan Party under any Loan Document. By accepting the benefits of the Collateral, each Secured Party that is a party to any such arrangement in respect of Banking Services or Swap Agreement, as applicable, shall be deemed to have appointed the Administrative Agent to serve as administrative agent and collateral agent under the Loan Documents and agreed to be bound by the Loan Documents as a Secured Party thereunder, subject to the limitations set forth in this paragraph.

(c) The Secured Parties irrevocably authorize the Administrative Agent, at its option and in its discretion, to subordinate any Lien on any property granted to or held by the Administrative Agent under any Loan Document to the holder of any Lien on such property that is permitted by Section 6.02(b). The Administrative Agent shall not be responsible for or have a duty to ascertain or inquire into any representation or warranty regarding the existence, value or collectability of the Collateral, the existence, priority or perfection of the Administrative Agent's Lien thereon or any certificate prepared by any Loan Party in connection therewith, nor shall the Administrative Agent be responsible or liable to the Lenders or any other Secured Party for any failure to monitor or maintain any portion of the Collateral.

SECTION 8.08. Credit Bidding. The Secured Parties hereby irrevocably authorize the Administrative Agent, at the direction of the Required Lenders, to credit bid all or any portion of the Obligations (including by accepting some or all of the Collateral in satisfaction of some or all of the Obligations pursuant to a deed in lieu of foreclosure or otherwise) and in such manner purchase (either directly or through one or more acquisition vehicles) all or any portion of the Collateral (a) at any sale thereof conducted under the provisions of the Bankruptcy Code, including under Sections 363, 1123 or 1129 of the

Bankruptcy Code, or any similar laws in any other jurisdictions to which a Loan Party is subject, or (b) at any other sale, foreclosure or acceptance of collateral in lieu of debt conducted by (or with the consent or at the direction of) the Administrative Agent (whether by judicial action or otherwise) in accordance with any applicable law. In connection with any such credit bid and purchase, the Obligations owed to the Secured Parties shall be entitled to be, and shall be, credit bid by the Administrative Agent at the direction of the Required Lenders on a ratable basis (with Obligations with respect to contingent or unliquidated claims receiving contingent interests in the acquired assets on a ratable basis that shall vest upon the liquidation of such claims in an amount proportional to the liquidated portion of the contingent claim amount used in allocating the contingent interests) for the asset or assets so purchased (or for the equity interests or debt instruments of the acquisition vehicle or vehicles that are issued in connection with such purchase). In connection with any such bid (i) the Administrative Agent shall be authorized to form one or more acquisition vehicles and to assign any successful credit bid to such acquisition vehicle or vehicles (ii) each of the Secured Parties' ratable interests in the Obligations which were credit bid shall be deemed without any further action under this Agreement to be assigned to such vehicle or vehicles for the purpose of closing such sale, (iii) the Administrative shall be authorized to adopt documents providing for the governance of the acquisition vehicle or vehicles (provided that any actions by the Administrative Agent with respect to such acquisition vehicle or vehicles, including any disposition of the assets or equity interests thereof, shall be governed, directly or indirectly, by, and the governing documents shall provide for, control by the vote of the Required Lenders or their permitted assignees under the terms of this Agreement or the governing documents of the applicable acquisition vehicle or vehicles, as the case may be, irrespective of the termination of this Agreement and without giving effect to the limitations on actions by the Required Lenders contained in Section 9.02 of this Agreement), (iv) the Administrative Agent on behalf of such acquisition vehicle or vehicles shall be authorized to issue to each of the Secured Parties, ratably on account of the relevant Obligations which were credit bid, interests, whether as equity, partnership interests, limited partnership interests or membership interests, in any such acquisition vehicle and/or debt instruments issued by such acquisition vehicle, all without the need for any Secured Party or acquisition vehicle to take any further action, and (v) to the extent that Obligations that are assigned to an acquisition vehicle are not used to acquire Collateral for any reason, such Obligations shall automatically be reassigned to the Secured Parties pro rata with their original interest in such Obligations and the equity interests and/or debt instruments issued by any acquisition vehicle on account of such Obligations shall automatically be cancelled, without the need for any Secured Party or any acquisition vehicle to take any further action. Notwithstanding that the ratable portion of the Obligations of each Secured Party are deemed assigned to the acquisition vehicle or vehicles as set forth in clause (ii) above, each Secured Party shall execute such documents and provide such information regarding the Secured Party (and/or any designee of the Secured Party which will receive interests in or debt instruments issued by such acquisition vehicle) as the Administrative Agent may reasonably request in connection with the formation of any acquisition vehicle, the formulation or submission of any credit bid or the consummation of the transactions contemplated by such credit bid.

SECTION 8.09. Certain ERISA Matters.

(a) Each Lender (x) represents and warrants, as of the date such Person became a Lender party hereto, to, and (y) covenants, from the date such Person became a Lender party hereto to the date such Person ceases being a Lender party hereto, for the benefit of, the Administrative Agent and each Arranger and their respective Affiliates, and not, for the avoidance of doubt, to or for the benefit of the Borrower or any other Loan Party, that at least one of the following is and will be true:

(i) such Lender is not using "plan assets" (within the meaning of the Plan Asset Regulations) of one or more Benefit Plans in connection with the Loans, the Letters of Credit or the Commitments,

(ii) the transaction exemption set forth in one or more PTEs, such as PTE 84-14 (a class exemption for certain transactions determined by independent qualified professional asset managers), PTE 95-60 (a class exemption for certain transactions involving insurance company general accounts), PTE 90-1 (a class exemption for certain transactions involving insurance company pooled separate accounts), PTE 91-38 (a class exemption for certain transactions involving bank collective investment funds) or PTE 96-23 (a class exemption for certain transactions determined by in-house asset managers), is applicable with respect to such Lender's entrance into, participation in, administration of and performance of the Loans, the Letters of Credit, the Commitments and this Agreement,

(iii) (A) such Lender is an investment fund managed by a "Qualified Professional Asset Manager" (within the meaning of Part VI of PTE 84-14), (B) such Qualified Professional Asset Manager made the investment decision on behalf of such Lender to enter into, participate in, administer and perform the Loans, the Letters of Credit, the Commitments and this Agreement, (C) the entrance into, participation in, administration of and performance of the Loans, the Letters of Credit, the Commitments and this Agreement satisfies the requirements of sub-sections (b) through (g) of Part I of PTE 84-14 and (D) to the best knowledge of such Lender, the requirements of subsection (a) of Part I of PTE 84-14 are satisfied with respect to such Lender's entrance into, participation in, administration of and performance of the Loans, the Letters of Credit, the Commitments and this Agreement, or

(iv) such other representation, warranty and covenant as may be agreed in writing between the Administrative Agent, in its sole discretion, and such Lender.

(b) In addition, unless sub-clause (i) in the immediately preceding clause (a) is true with respect to a Lender or such Lender has not provided another representation, warranty and covenant as provided in sub-clause (iv) in the immediately preceding clause (a), such Lender further (x) represents and warrants, as of the date such Person became a Lender party hereto, to, and (y) covenants, from the date such Person became a Lender party hereto to the date such Person ceases being a Lender party hereto, for the benefit of, the Administrative Agent, and each Arranger and their respective Affiliates, and not, for the avoidance of doubt, to or for the benefit of the Borrower or any other Loan Party, that none of the Administrative Agent, or any Arranger, any Syndication Agent, or any of their respective Affiliates is a fiduciary with respect to the Collateral or the assets of such Lender (including in connection with the reservation or exercise of any rights by the Administrative Agent under this Agreement, any Loan Document or any documents related to hereto or thereto).

(c) The Administrative Agent, each Arranger and each Syndication Agent hereby informs the Lenders that each such Person is not undertaking to provide investment advice or to give advice in a fiduciary capacity, in connection with the transactions contemplated hereby, and that such Person has a financial interest in the transactions contemplated hereby in that such Person or an Affiliate thereof (i) may receive interest or other payments with respect to the Loans, the Letters of Credit, the Commitments, this Agreement and any other Loan Documents (ii) may recognize a gain if it extended the Loans, the Letters of Credit or the Commitments for an amount less than the amount being paid for an interest in the Loans, the Letters of Credit or the Commitments by such Lender or (iii) may receive fees or other payments in connection with the transactions contemplated hereby, the Loan Documents or otherwise, including structuring fees, commitment fees, arrangement fees, facility fees, upfront fees, underwriting fees, ticking fees, agency fees, administrative agent or collateral agent fees, utilization fees, minimum usage fees, letter of credit fees, fronting fees, deal-away or alternate transaction fees, amendment fees, processing fees, term out premiums, banker's acceptance fees, breakage or other early termination fees or fees similar to the foregoing.

SECTION 8.10. Flood Laws. JPMorgan Chase has adopted internal policies and procedures that address requirements placed on federally regulated lenders under the National Flood Insurance Reform Act of 1994 and related legislation (the "Flood Laws"). JPMorgan Chase, as administrative agent or collateral agent on a syndicated facility, will post on the applicable electronic platform (or otherwise distribute to each Lender in the syndicate) documents that it receives in connection with the Flood Laws. However, JPMorgan Chase reminds each Lender and Participant in the facility that, pursuant to the Flood Laws, each federally regulated Lender (whether acting as a Lender or Participant in the facility) is responsible for assuring its own compliance with the flood insurance requirements.

ARTICLE IX
Miscellaneous

SECTION 9.01. Notices. (23) Except in the case of notices and other communications expressly permitted to be given by telephone or Electronic System (and subject to paragraph (b) below), all notices and other communications provided for herein shall be in writing and shall be delivered by hand or overnight courier service, mailed by certified or registered mail or sent by telecopy, as follows:

(i) if to the Borrower or any other Loan Party, to:

DexCom, Inc.
6340 Sequence Drive
San Diego, CA 92121
Attention: Jereme Sylvain
Telephone No.: (858) 203-6538
Email: jereme.sylvain@dexcom.com

(ii) if to the Administrative Agent or Issuing Bank, in the case of Borrowings denominated in dollars to:

JPMorgan Chase Bank, N.A.
10 S. Dearborn St Floor L2S
Chicago, IL 60603
Attention: April Yebd
Telephone No: (312) 732-2628
Fax No.: (888) 303-9732
Email: jpm.agency.cri@jpmorgan.com

in the case of Borrowings denominated in a Foreign Currency to:

JPMorgan Chase Bank, London Branch
25 Bank Street, Canary Wharf, 6th Floor
London E145JP, United Kingdom
Attention: Loans Agency,
Fax No.: +44 20 7777 2360
Email: Loan_and_agency_London@jpmorgan.com

In each case, with a copy to:

JPMorgan Chase Bank, N.A.
3 Park Plaza, Suite 900
Irvine CA 92614,
Attention: Ling Li
Fax No.: (714) 917-4866
Email: ling.f.li@jpmorgan.com

and:

Mayer Brown LLP
1221 Avenue of the Americas
New York, New York 10020
Attention: Adam Wolk
Telephone No.: (212) 506-2257
Fax No.: (212) 849-5957
Email: awolk@mayerbrown.com

(iii) if to any other Lender, to it at its address (or telecopy number) set forth in its Administrative Questionnaire.

Notices sent by hand or overnight courier service, or mailed by certified or registered mail, shall be deemed to have been given when received; notices sent by facsimile shall be deemed to have been given when sent (except that, if not given during normal business hours for the recipient, shall be deemed to have been given at the opening of business on the next Business Day for the recipient). Notices delivered through Electronic Systems, to the extent provided in paragraph (b) below, shall be effective as provided in said paragraph (b).

(a) Notices and other communications to the Lenders and the Issuing Bank hereunder may be delivered or furnished by using Electronic Systems or Approved Electronic Platforms, as applicable, or pursuant to procedures approved by the Administrative Agent; provided that the foregoing shall not apply to notices pursuant to Article II unless otherwise agreed by the Administrative Agent and the applicable Lender. The Administrative Agent or the Borrower may, in its discretion, agree to accept notices and other communications to it hereunder by using Electronic Systems or Approved Electronic Platforms, as applicable, pursuant to procedures approved by it; provided that approval of such procedures may be limited to particular notices or communications.

Unless the Administrative Agent otherwise prescribes, (i) notices and other communications sent to an e-mail address shall be deemed received upon the sender's receipt of an acknowledgement from the intended recipient (such as by the "return receipt requested" function, as available, return e-mail or other written acknowledgement), and (ii) notices or communications posted to an Internet or intranet website shall be deemed received upon the deemed receipt by the intended recipient, at its e-mail address as described in the foregoing clause (i), of notification that such notice or communication is available and identifying the website address therefor; provided that, for both clauses (i) and (ii) above, if such notice, email or other communication is not sent during the normal business hours of the recipient, such notice or communication shall be deemed to have been sent at the opening of business on the next Business Day for the recipient.

(b) Any party hereto may change its address or telecopy number for notices and other communications hereunder by notice to the other parties hereto.

SECTION 9.02. Waivers; Amendments. (23) No failure or delay by the Administrative Agent, the Issuing Bank or any Lender in exercising any right or power hereunder or under any other Loan Document shall operate as a waiver thereof, nor shall any single or partial exercise of any such right or power, or any

abandonment or discontinuance of steps to enforce such a right or power, preclude any other or further exercise thereof or the exercise of any other right or power. The rights and remedies of the Administrative Agent, the Issuing Bank and the Lenders hereunder and under any other Loan Document are cumulative and are not exclusive of any rights or remedies that they would otherwise have. No waiver of any provision of any Loan Document or consent to any departure by the Borrower therefrom shall in any event be effective unless the same shall be permitted by paragraph (b) of this Section, and then such waiver or consent shall be effective only in the specific instance and for the purpose for which given. Without limiting the generality of the foregoing, the making of a Loan or issuance of a Letter of Credit shall not be construed as a waiver of any Default, regardless of whether the Administrative Agent, any Lender or the Issuing Bank may have had notice or knowledge of such Default at the time.

(a) Subject to Section 9.02(c) below, neither this Agreement nor any other Loan Document nor any provision hereof or thereof may be waived, amended or modified except (i) in the case of this Agreement, pursuant to an agreement or agreements in writing entered into by the Borrower and the Required Lenders or (ii) in the case of any other Loan Document, pursuant to an agreement or agreements in writing entered into by the Administrative Agent and the Loan Party or Loan Parties that are parties thereto, with the consent of the Required Lenders; provided that no such agreement shall (A) increase the Commitment of any Lender without the written consent of such Lender, (B) reduce or forgive the principal amount of any Loan or LC Disbursement or reduce or the rate of interest thereon (other than to reduce the default rate accruing under and in accordance with Section 2.13(c)), or reduce or forgive any interest or fees or other amount payable hereunder, without the written consent of each Lender (including any such Lender that is a Defaulting Lender) affected thereby, (iii) postpone the scheduled date of payment of the principal amount of any Loan or LC Disbursement, or any interest thereon, or any fees or other amount payable hereunder, or reduce the amount of, waive or excuse any such payment, or postpone the scheduled date of expiration of any Commitment, without the written consent of each Lender affected thereby, (iv) change Section 2.18(b) or (c) in any manner or Section 8.08 in a manner that would alter the pro rata sharing by the Lenders required thereby, in each case, without the written consent of each Lender, (v) change any of the provisions of this Section or the definition of "Required Lenders" or any other provision hereof specifying the number or percentage of Lenders required to waive, amend or modify any rights hereunder or make any determination or grant any consent hereunder, without the written consent of each Lender, (vi) waive or amend clause (d) of the definition of "Ineligible Institution", without the written consent of each Lender, (vii) except as provided in any Collateral Document, release all or substantially all of the Collateral without the written consent of each Lender, (viii) release any Guarantor from its obligation under its Loan Guaranty or Obligation Guaranty (except as otherwise permitted herein or in the other Loan Documents), without the written consent of each Lender or (ix) subordinate any of the Obligations to any other Indebtedness of the Loan Parties (except as otherwise permitted herein or in the other Loan Documents), without the written consent of each Lender; provided further that no such agreement shall amend, modify or otherwise affect the rights or duties of the Administrative Agent or the Issuing Bank hereunder without the prior written consent of the Administrative Agent or the Issuing Bank, as the case may be; provided further that no such agreement shall amend or modify the provisions of Section 2.07 or any letter of credit application and any bilateral agreement between the Borrower and the Issuing Bank regarding the Issuing Bank's Letter of Credit Commitment or the respective rights and obligations between the Borrower and the Issuing Bank in connection with the issuance of Letters of Credit without the prior written consent of the Administrative Agent and the Issuing Bank, respectively. Any amendment, waiver or other modification of this Agreement or any other Loan Document that by its terms affects the rights or duties under this Agreement of the Lenders of one or more Classes (but not the Lenders of any other Class), may be effected by an agreement or agreements in writing entered into by the Borrower and the requisite number or percentage in interest of each affected Class of Lenders that would be required to consent thereto under this Section if such Class of Lenders were the only Class of Lenders hereunder at the time.

(b) The Lenders and the Issuing Bank hereby irrevocably authorize the Administrative Agent, at its option and in its sole discretion, to release any Liens granted to the Administrative Agent by the Loan Parties on any Collateral (i) upon the Payment in Full of all Secured Obligations, and the cash collateralization of all Unliquidated Obligations in a manner satisfactory to each affected Lender, (ii) constituting property being sold or disposed of if the Loan Party disposing of such property certifies to the Administrative Agent that the sale or disposition is made in compliance with the terms of this Agreement (and the Administrative Agent may rely conclusively on any such certificate, without further inquiry), and to the extent that the property being sold or disposed of constitutes 100% of the Equity Interests of a Subsidiary, the Administrative Agent is authorized to release any Loan Guaranty or Obligation Guaranty provided by such Subsidiary, (iii) constituting property leased to a Loan Party under a lease which has expired or been terminated in a transaction permitted under this Agreement, (iv) as required to effect any sale or other disposition of such Collateral in connection with any exercise of remedies of the Administrative Agent and the Lenders pursuant to Article VII or (v) as required pursuant to the terms of the Security Agreement or any other Loan Document. Any such release shall not in any manner discharge, affect, or impair the Obligations or any Liens (other than those expressly being released) upon (or obligations of the Loan Parties in respect of) all interests retained by the Loan Parties, including the proceeds of any sale, all of which shall continue to constitute part of the Collateral. Any execution and delivery by the Administrative Agent of documents in connection with any such release shall be without recourse to or warranty by the Administrative Agent.

(c) If, in connection with any proposed amendment, waiver or consent requiring the consent of "each Lender" or "each Lender affected thereby," the consent of the Required Lenders is obtained, but the consent of other necessary Lenders is not obtained (any such Lender whose consent is necessary but has not been obtained being referred to herein as a "***Non-Consenting Lender***"), then the Borrower may elect to replace a Non-Consenting Lender as a Lender party to this Agreement, provided that, concurrently with such replacement, (i) another bank or other entity which is reasonably satisfactory to the Borrower, the Administrative Agent and the Issuing Bank shall agree, as of such date, to purchase for cash the Loans and other Obligations due to the Non-Consenting Lender pursuant to an Assignment and Assumption and to become a Lender for all purposes under this Agreement and to assume all obligations of the Non-Consenting Lender to be terminated as of such date and to comply with the requirements of clause (b) of Section 9.04, and (ii) the Borrower shall pay to such Non-Consenting Lender in same day funds on the day of such replacement (1) all interest, fees and other amounts then accrued but unpaid to such Non-Consenting Lender by the Borrower hereunder to and including the date of termination, including without limitation payments due to such Non-Consenting Lender under Sections 2.15 and 2.17, and (2) an amount, if any, equal to the payment which would have been due to such Lender on the day of such replacement under Section 2.16 had the Loans of such Non-Consenting Lender been prepaid on such date rather than sold to the replacement Lender. Each party hereto agrees that an assignment required pursuant to this paragraph may be effected pursuant to an Assignment and Assumption executed by the Borrower, the Administrative Agent and the assignee (or, to the extent applicable, an agreement incorporating an Assignment and Assumption by reference pursuant to an Approved Electronic Platform as to which the Administrative Agent and such parties are participants), and (b) the Lender required to make such assignment need not be a party thereto in order for such assignment to be effective and shall be deemed to have consented to an be bound by the terms thereof; provided that, following the effectiveness of any such assignment, the other parties to such assignment agree to execute and deliver such documents necessary to evidence such assignment as reasonably requested by the applicable Lender, provided that any such documents shall be without recourse to or warranty by the parties thereto.

SECTION 9.03. Expenses; Indemnity; Damage Waiver. (23) The Borrower shall pay (i) all reasonable and documented out-of-pocket expenses incurred by the Administrative Agent and its Affiliates (which shall be limited, in the case of legal fees and expenses, to the reasonable and documented fees,

disbursements and other charges of one primary counsel and one local counsel in each applicable jurisdiction) and the Lead Arrangers in connection with the syndication and distribution (including, without limitation, via the internet or through an Electronic System or Approved Electronic Platform) of the credit facilities provided for herein, the preparation and administration of this Agreement and the other Loan Documents or any amendments, modifications or waivers of the provisions hereof or thereof (whether or not the transactions contemplated hereby or thereby shall be consummated), (ii) all reasonable and documented out-of-pocket expenses incurred by the Issuing Bank in connection with the issuance, amendment, renewal or extension of any Letter of Credit or any demand for payment thereunder and (iii) all reasonable and documented out-of-pocket expenses incurred by the Administrative Agent, the Issuing Bank or any Lender (which shall be limited, in the case of legal fees and expenses, to the reasonable and documented fees, disbursements and other charges of one primary counsel and one local counsel in each applicable jurisdiction for the Administrative Agent and not more than one outside counsel and one local counsel in each applicable jurisdiction for all of the other Lenders and, solely in the case of an actual or reasonably perceived conflict of interest, one additional counsel for each affected Lender) in connection with the enforcement or protection of its rights in connection with this Agreement and the other Loan Documents, including its rights under this Section, or in connection with the Loans made or Letters of Credit issued hereunder, including all such reasonable and documented out-of-pocket expenses incurred during any workout, restructuring or negotiations in respect of such Loans or Letters of Credit.

(a) The Borrower shall indemnify the Administrative Agent, the Lead Arrangers, the Syndication Agents, the Issuing Bank and each Lender, and each Related Party of any of the foregoing Persons (each such Person being called an "***Indemnitee***") against, and hold each Indemnitee harmless from, any and all losses, claims, damages, liabilities and related expenses (which shall be limited, in the case of legal fees and expenses, to the reasonable and documented fees, disbursements and other charges of one primary counsel and one local counsel in each applicable jurisdiction for the Administrative Agent, and not more than one outside counsel, and one local counsel in each applicable jurisdiction for all of the other Indemnitees and, solely in the case of an actual or reasonably perceived conflict of interest, one additional counsel for each affected Indemnitee) incurred by or asserted against any Indemnitee arising out of, in connection with, or as a result of (i) the execution or delivery of this Agreement, any other Loan Document, or any agreement or instrument contemplated hereby or thereby, the performance by the parties hereto of their respective obligations hereunder or thereunder or the consummation of the Transactions or any other transactions contemplated hereby, (ii) any Loan or Letter of Credit or the use of the proceeds therefrom (including any refusal by the Issuing Bank to honor a demand for payment under a Letter of Credit if the documents presented in connection with such demand do not strictly comply with the terms of such Letter of Credit), (iii) any actual or alleged presence or Release of Hazardous Materials on or from any property owned or operated by the Borrower or any of its Subsidiaries, or any Environmental Liability related in any way to the Borrower or any of its Subsidiaries, or (iv) any actual or prospective claim, litigation, investigation or proceeding relating to any of the foregoing, whether or not such claim, litigation, investigation or proceeding is brought by the Borrower or any other Loan Party or any of their Subsidiaries or its or their respective equity holders, Affiliates, creditors or any other third Person and whether based on contract, tort or any other theory and regardless of whether any Indemnitee is a party thereto; provided that such indemnity shall not, as to any Indemnitee, be available to the extent that such losses, claims, damages, liabilities or related expenses are determined by a court of competent jurisdiction by final and non-appealable judgment to have resulted from the gross negligence or willful misconduct of such Indemnitee. This Section 9.03(b) shall not apply with respect to Taxes other than any Taxes that represent losses, claims or damages arising from any non-Tax claim.

(b) Each Lender severally agrees to pay any amount required to be paid by any Loan Party under paragraph (a) or (b) of this Section 9.03 to the Administrative Agent, the Lead Arrangers and each

Issuing Bank, and each Related Party of any of the foregoing Persons (each, an "***Agent Indemnitee***") (to the extent not reimbursed by the Loan Parties and without limiting the obligation of any Loan Party to do so), ratably according to their respective Applicable Percentage in effect on the date on which indemnification is sought under this Section (or, if indemnification is sought after the date upon which the Commitments shall have terminated and the Loans shall have been paid in full, ratably in accordance with such Applicable Percentage immediately prior to such date), from and against any and all losses, claims, damages, liabilities and related expenses, including the fees, charges and disbursements of any kind whatsoever that may at any time (whether before or after the payment of the Loans) be imposed on, incurred by or asserted against such Agent Indemnitee in any way relating to or arising out of the Commitments, this Agreement, any of the other Loan Documents or any documents contemplated by or referred to herein or therein or the transactions contemplated hereby or thereby or any action taken or omitted by such Agent Indemnitee under or in connection with any of the foregoing; provided that the unreimbursed expense or indemnified loss, claim, damage, liability or related expense, as the case may be, was incurred by or asserted against such Agent Indemnitee in its capacity as such; provided further that no Lender shall be liable for the payment of any portion of such liabilities, obligations, losses, damages, penalties, actions, judgments, suits, costs, expenses or disbursements that are found by a final and non-appealable decision of a court of competent jurisdiction to have resulted from such Agent Indemnitee's gross negligence or willful misconduct. The agreements in this Section shall survive the termination of this Agreement and the Payment in Full of the Secured Obligations.

(c) To the extent permitted by applicable law, no party hereto shall assert, and each such party hereby waives, any claim against any other party hereto, (i) for any damages arising from the use by others of information or other materials obtained through telecommunications, electronic or other information transmission systems (including the Internet), or (ii) on any theory of liability, for special, indirect, consequential or punitive damages (as opposed to direct or actual damages) arising out of, in connection with, or as a result of, this Agreement, any other Loan Document, or any agreement or instrument contemplated hereby or thereby, the Transactions, any Loan or Letter of Credit or the use of the proceeds thereof; provided that, nothing in this clause (d) shall relieve the Borrower of any obligation it may have to indemnify an Indemnitee against special, indirect, consequential or punitive damages asserted against such Indemnitee by a third party.

(d) All amounts due under this Section shall be payable promptly after written demand therefor.

SECTION 9.04. Successors and Assigns. (23) The provisions of this Agreement shall be binding upon and inure to the benefit of the parties hereto and their respective successors and assigns permitted hereby (including any Affiliate of the Issuing Bank that issues any Letter of Credit), except that (i) the Borrower may not assign or otherwise transfer any of its rights or obligations hereunder without the prior written consent of each Lender (and any attempted assignment or transfer by the Borrower without such consent shall be null and void) and (ii) no Lender may assign or otherwise transfer its rights or obligations hereunder except in accordance with this Section. Nothing in this Agreement, expressed or implied, shall be construed to confer upon any Person (other than the parties hereto, their respective successors and assigns permitted hereby (including any Affiliate of the Issuing Bank that issues any Letter of Credit), Participants (to the extent provided in paragraph (c) of this Section) and, to the extent expressly contemplated hereby, the Related Parties of each of the Administrative Agent, the Issuing Bank and the Lenders) any legal or equitable right, remedy or claim under or by reason of this Agreement.

(a) (23) Subject to the conditions set forth in paragraph (b)(ii) below, any Lender may assign to one or more Persons (other than an Ineligible Institution) all or a portion of its rights and obligations under this Agreement (including all or a portion of its Commitment, participations in Letters of Credit and the

Loans at the time owing to it) with the prior written consent (such consent not to be unreasonably withheld) of:

(A) the Borrower, provided that, the Borrower shall be deemed to have consented to an assignment unless it shall have objected thereto by written notice to the Administrative Agent within five (5) Business Days after having received notice thereof; provided that no consent of the Borrower shall be required for an assignment to a Lender, an Affiliate of a Lender, an Approved Fund or, if an Event of Default has occurred and is continuing, any other assignee;

(B) the Administrative Agent, provided that no consent of the Administrative Agent shall be required for an assignment of any Commitment to an assignee that is a Lender (other than a Defaulting Lender) with a Commitment immediately prior to giving effect to such assignment; and

(C) the Issuing Bank.

(ii) Assignments shall be subject to the following additional conditions:

(A) except in the case of an assignment to a Lender or an Affiliate of a Lender or an assignment of the entire remaining amount of the assigning Lender's Commitment or Loans of any Class, the amount of the Commitment or Loans of the assigning Lender subject to each such assignment (determined as of the date the Assignment and Assumption with respect to such assignment is delivered to the Administrative Agent) shall not be less than $5,000,000 unless each of the Borrower and the Administrative Agent otherwise consent, provided that no such consent of the Borrower shall be required if an Event of Default has occurred and is continuing;

(B) each partial assignment shall be made as an assignment of a proportionate part of all the assigning Lender's rights and obligations under this Agreement, provided that this clause shall not be construed to prohibit the assignment of a proportionate part of all the assigning Lender's rights and obligations in respect of one Class of Commitments or Loans;

(C) the parties to each assignment shall execute and deliver to the Administrative Agent (x) an Assignment and Assumption or (y) to the extent applicable, an agreement incorporating an Assignment and Assumption by reference pursuant to an Approved Electronic Platform as to which the Administrative Agent and the parties to the Assignment and Assumption are participants, together with a processing and recordation fee of $3,500; and

(D) the assignee, if it shall not be a Lender, shall deliver to the Administrative Agent an Administrative Questionnaire in which the assignee designates one or more credit contacts to whom all syndicate-level information (which may contain material non-public information about the Borrower, the Loan Parties and their Related Parties or their respective securities) will be made available and who may receive such information in accordance with the assignee's compliance procedures and applicable laws, including federal and state securities laws.

For the purposes of this Section 9.04(b), the term "***Approved Fund***" and "***Ineligible Institution***" have the following meanings:

"***Approved Fund***" means any Person (other than a natural person) that is engaged in making, purchasing, holding or investing in bank loans and similar extensions of credit in the ordinary course of its

business and that is administered or managed by (a) a Lender, (b) an Affiliate of a Lender or (c) an entity or an Affiliate of an entity that administers or manages a Lender.

"***Ineligible Institution***" means (a) a natural person, (b) a Defaulting Lender or its Lender Parent, (c) a company, investment vehicle or trust for, or owned and operated for the primary benefit of, a natural person or relative(s) thereof; provided that, such company, investment vehicle or trust shall not constitute an Ineligible Institution if it (x) has not been established for the primary purpose of acquiring any Loans or Commitments, (y) is managed by a professional advisor, who is not such natural person or a relative thereof, having significant experience in the business of making or purchasing commercial loans, and (z) has assets greater than $25,000,000 and a significant part of its activities consist of making or purchasing commercial loans and similar extensions of credit in the ordinary course of its business, or (d) the Borrower or any of its Affiliates.

(i) Subject to acceptance and recording thereof pursuant to paragraph (b)(iv) of this Section, from and after the effective date specified in each Assignment and Assumption the assignee thereunder shall be a party hereto and, to the extent of the interest assigned by such Assignment and Assumption, have the rights and obligations of a Lender under this Agreement, and the assigning Lender thereunder shall, to the extent of the interest assigned by such Assignment and Assumption, be released from its obligations under this Agreement (and, in the case of an Assignment and Assumption covering all of the assigning Lender's rights and obligations under this Agreement, such Lender shall cease to be a party hereto but shall continue to be entitled to the benefits of Sections 2.15, 2.16, 2.17 and 9.03). Any assignment or transfer by a Lender of rights or obligations under this Agreement that does not comply with this Section 9.04 shall be treated for purposes of this Agreement as a sale by such Lender of a participation in such rights and obligations in accordance with paragraph (c) of this Section.

(ii) The Administrative Agent, acting for this purpose as a non-fiduciary agent of the Borrower, shall maintain at one of its offices a copy of each Assignment and Assumption delivered to it and a register for the recordation of the names and addresses of the Lenders, and the Commitment of, and principal amount (and stated interest) of the Loans and LC Disbursements owing to, each Lender pursuant to the terms hereof from time to time (the "***Register***"). The entries in the Register shall be conclusive, and the Borrower, the Administrative Agent, the Issuing Bank and the Lenders shall treat each Person whose name is recorded in the Register pursuant to the terms hereof as a Lender hereunder for all purposes of this Agreement, notwithstanding notice to the contrary. The Register shall be available for inspection by the Borrower, the Issuing Bank and any Lender, at any reasonable time and from time to time upon reasonable prior notice.

(iii) Upon its receipt of (x) a duly completed Assignment and Assumption executed by an assigning Lender and an assignee or (y) to the extent applicable, an agreement incorporating an Assignment and Assumption by reference pursuant to an Approved Electronic Platform as to which the Administrative Agent and the parties to the Assignment and Assumption are participants, the assignee's completed Administrative Questionnaire (unless the assignee shall already be a Lender hereunder), the processing and recordation fee referred to in paragraph (b) of this Section and any written consent to such assignment required by paragraph (b) of this Section, the Administrative Agent shall accept such Assignment and Assumption and record the information contained therein in the Register; provided that if either the assigning Lender or the assignee shall have failed to make any payment required to be made by it pursuant to Section 2.06(d) or (e), 2.07(b), 2.18(d) or 9.03(c), the Administrative Agent shall have no obligation to accept such Assignment and Assumption and record the information therein in the Register unless and until such payment shall have been made

in full, together with all accrued interest thereon. No assignment shall be effective for purposes of this Agreement unless it has been recorded in the Register as provided in this paragraph.

(b) Any Lender may, without the consent of, or notice to, the Borrower, the Administrative Agent or the Issuing Bank, sell participations to one or more banks or other entities (a "***Participant***"), other than an Ineligible Institution, in all or a portion of such Lender's rights and obligations under this Agreement (including all or a portion of its Commitment and the Loans owing to it); provided that (A) such Lender's obligations under this Agreement shall remain unchanged; (B) such Lender shall remain solely responsible to the other parties hereto for the performance of such obligations; and (C) the Borrower, the Administrative Agent, the Issuing Bank and the other Lenders shall continue to deal solely and directly with such Lender in connection with such Lender's rights and obligations under this Agreement. Any agreement or instrument pursuant to which a Lender sells such a participation shall provide that such Lender shall retain the sole right to enforce this Agreement and to approve any amendment, modification or waiver of any provision of this Agreement; provided that such agreement or instrument may provide that such Lender will not, without the consent of the Participant, agree to any amendment, modification or waiver described in the first proviso to Section 9.02(b) that affects such Participant. The Borrower agrees that each Participant shall be entitled to the benefits of Sections 2.15, 2.16 and 2.17 (subject to the requirements and limitations therein, including the requirements under Sections 2.17(f) and (g) (it being understood that the documentation required under Section 2.17(f) shall be delivered to the participating Lender and the information and documentation required under 2.17(g) will be delivered to the Borrower and the Administrative Agent)) to the same extent as if it were a Lender and had acquired its interest by assignment pursuant to paragraph (b) of this Section; provided that such Participant (A) agrees to be subject to the provisions of Section 2.19 as if it were an assignee under paragraph (b) of this Section; and (B) shall not be entitled to receive any greater payment under Section 2.15 or 2.17, with respect to any participation, than its participating Lender would have been entitled to receive, except to the extent such entitlement to receive a greater payment results from a Change in Law that occurs after the Participant acquired the applicable participation. Each Lender that sells a participation agrees, at the Borrower's request and expense, to use reasonable efforts to cooperate with the Borrower to effectuate the provisions of Section 2.19(b) with respect to any Participant. To the extent permitted by law, each Participant also shall be entitled to the benefits of Section 9.08 as though it were a Lender; provided that such Participant agrees to be subject to Section 2.18(c) as though it were a Lender. Each Lender that sells a participation shall, acting solely for this purpose as an agent of the Borrower, maintain a register on which it enters the name and address of each Participant and the principal amounts (and stated interest) of each Participant's interest in the Loans or other obligations under the Loan Documents (the "***Participant Register***"); provided that no Lender shall have any obligation to disclose all or any portion of the Participant Register (including the identity of any Participant or any information relating to a Participant's interest in any Commitments, Loans, Letters of Credit or its other obligations under any Loan Document) to any Person except to the extent that such disclosure is necessary to establish that such Commitment, Loan, Letter of Credit or other obligation is in registered form under Section 5f.103-1(c) of the United States Treasury Regulations. The entries in the Participant Register shall be conclusive absent manifest error, and such Lender shall treat each Person whose name is recorded in the Participant Register as the owner of such participation for all purposes of this Agreement notwithstanding any notice to the contrary. For the avoidance of doubt, the Administrative Agent (in its capacity as Administrative Agent) shall have no responsibility for maintaining a Participant Register.

(c) Any Lender may at any time pledge or assign a security interest in all or any portion of its rights under this Agreement to secure obligations of such Lender, including any pledge or assignment to secure obligations to a Federal Reserve Bank, and this Section shall not apply to any such pledge or assignment of a security interest; provided that no such pledge or assignment of a security interest shall release a Lender

from any of its obligations hereunder or substitute any such pledgee or assignee for such Lender as a party hereto.

SECTION 9.05. Survival. All covenants, agreements, representations and warranties made by the Borrower herein and in the certificates or other instruments delivered in connection with or pursuant to this Agreement and the other Loan Documents shall be considered to have been relied upon by the other parties hereto and shall survive the execution and delivery of this Agreement and the making of any Loans and issuance of any Letters of Credit, regardless of any investigation made by any such other party or on its behalf and notwithstanding that the Administrative Agent, the Issuing Bank or any Lender may have had notice or knowledge of any Default or incorrect representation or warranty at the time any credit is extended hereunder, and shall continue in full force and effect as long as the principal of or any accrued interest on any Loan or any fee or any other amount payable under this Agreement is outstanding and unpaid or any Letter of Credit is outstanding and so long as the Commitments have not expired or terminated. The provisions of Sections 2.15, 2.16, 2.17 and 9.03 and Article VIII shall survive and remain in full force and effect regardless of the consummation of the transactions contemplated hereby, the repayment of the Loans, the expiration or termination of the Letters of Credit and the Commitments or the termination of this Agreement or any provision hereof.

SECTION 9.06. Counterparts; Integration; Effectiveness; Electronic Execution. (23) This Agreement may be executed in counterparts (and by different parties hereto on different counterparts), each of which shall constitute an original, but all of which when taken together shall constitute a single contract. This Agreement, the other Loan Documents and any separate letter agreements with respect to (i) fees payable to the Administrative Agent and (ii) the reductions of the Letter of Credit Commitment of any Issuing Bank constitute the entire contract among the parties relating to the subject matter hereof and supersede any and all previous agreements and understandings, oral or written, relating to the subject matter hereof. Except as provided in Section 4.01, this Agreement shall become effective when it shall have been executed by the Administrative Agent and when the Administrative Agent shall have received counterparts hereof which, when taken together, bear the signatures of each of the other parties hereto, and thereafter shall be binding upon and inure to the benefit of the parties hereto and their respective successors and assigns.

(a) Delivery of an executed counterpart of a signature page of this Agreement by telecopy, emailed pdf. or any other electronic means that reproduces an image of the actual executed signature page shall be effective as delivery of a manually executed counterpart of this Agreement. The words “execution,” “signed,” “signature,” “delivery,” and words of like import in or relating to any document to be signed in connection with this Agreement and the transactions contemplated hereby shall be deemed to include Electronic Signatures, deliveries or the keeping of records in electronic form, each of which shall be of the same legal effect, validity or enforceability as a manually executed signature, physical delivery thereof or the use of a paper-based recordkeeping system, as the case may be, to the extent and as provided for in any applicable law, including the Federal Electronic Signatures in Global and National Commerce Act, the New York State Electronic Signatures and Records Act, or any other similar state laws based on the Uniform Electronic Transactions Act; provided that nothing herein shall require the Administrative Agent or Silicon Valley Bank to accept electronic signatures in any form or format without its prior written consent.

SECTION 9.07. Severability. Any provision of any Loan Document held to be invalid, illegal or unenforceable in any jurisdiction shall, as to such jurisdiction, be ineffective to the extent of such invalidity, illegality or unenforceability without affecting the validity, legality and enforceability of the remaining provisions thereof; and the invalidity of a particular provision in a particular jurisdiction shall not invalidate such provision in any other jurisdiction.

SECTION 9.08. Right of Setoff. If an Event of Default shall have occurred and be continuing, each Lender and each of its Affiliates is hereby authorized at any time and from time to time, to the fullest extent permitted by law, to set off and apply any and all deposits (general or special, time or demand, provisional or final) at any time held and other obligations at any time owing by such Lender or Affiliate to or for the credit or the account of the Borrower against any of and all the obligations of the Borrower now or hereafter existing under this Agreement held by such Lender, irrespective of whether or not such Lender shall have made any demand under this Agreement and although such obligations may be unmatured. The rights of each Lender under this Section are in addition to other rights and remedies (including other rights of setoff) which such Lender may have.

SECTION 9.09. Governing Law; Jurisdiction; Consent to Service of Process. (23) (a) The Loan Documents (other than those containing a contrary express choice of law provision) shall be governed by and construed in accordance with the internal laws of the State of New York, but giving effect to federal laws applicable to national banks.

(a) Each party hereto irrevocably and unconditionally submits, for itself and its property, to the exclusive jurisdiction of the Supreme Court of the State of New York sitting in the Borough of Manhattan, and of the United States District Court for the Southern District of New York sitting in the Borough of Manhattan, and any appellate court from any thereof, in any action or proceeding arising out of or relating to any Loan Documents, the transactions relating hereto or thereto, or for recognition or enforcement of any judgment, and each of the parties hereto hereby irrevocably and unconditionally agrees that all claims in respect of any such action or proceeding may (and any such claims, cross-claims or third party claims brought against the Administrative Agent or any of its Related Parties may only) be heard and determined in such New York State or, to the extent permitted by law, in such federal court. Each of the parties hereto agrees that a final judgment in any such action or proceeding shall be conclusive and may be enforced in other jurisdictions by suit on the judgment or in any other manner provided by law. Nothing in this Agreement or any other Loan Document shall affect any right that the Administrative Agent, the Issuing Bank or any Lender may otherwise have to bring any action or proceeding relating to this Agreement against the Borrower or its properties in the courts of any jurisdiction.

(b) Each party hereto irrevocably and unconditionally waives, to the fullest extent it may legally and effectively do so, any objection which it may now or hereafter have to the laying of venue of any suit, action or proceeding arising out of or relating to this Agreement or any other Loan Document in any court referred to in paragraph (b) of this Section. Each of the parties hereto hereby irrevocably waives, to the fullest extent permitted by law, the defense of an inconvenient forum to the maintenance of such action or proceeding in any such court.

(c) Each party to this Agreement irrevocably consents to service of process in the manner provided for notices in Section 9.01. Nothing in this Agreement or any other Loan Document will affect the right of any party to this Agreement to serve process in any other manner permitted by law.

SECTION 9.10. WAIVER OF JURY TRIAL . EACH PARTY HERETO HEREBY WAIVES, TO THE FULLEST EXTENT PERMITTED BY APPLICABLE LAW, ANY RIGHT IT MAY HAVE TO A TRIAL BY JURY IN ANY LEGAL PROCEEDING DIRECTLY OR INDIRECTLY ARISING OUT OF OR RELATING TO THIS AGREEMENT, ANY OTHER LOAN DOCUMENT OR THE TRANSACTIONS CONTEMPLATED HEREBY OR THEREBY (WHETHER BASED ON CONTRACT, TORT OR ANY OTHER THEORY). EACH PARTY HERETO (A) CERTIFIES THAT NO REPRESENTATIVE, AGENT OR ATTORNEY OF ANY OTHER PARTY HAS REPRESENTED, EXPRESSLY OR OTHERWISE, THAT SUCH OTHER PARTY WOULD NOT, IN THE EVENT OF LITIGATION, SEEK TO ENFORCE THE

FOREGOING WAIVER AND (B) ACKNOWLEDGES THAT IT AND THE OTHER PARTIES HERETO HAVE BEEN INDUCED TO ENTER INTO THIS AGREEMENT BY, AMONG OTHER THINGS, THE MUTUAL WAIVERS AND CERTIFICATIONS IN THIS SECTION.

SECTION 9.11. Headings. Article and Section headings and the Table of Contents used herein are for convenience of reference only, are not part of this Agreement and shall not affect the construction of, or be taken into consideration in interpreting, this Agreement.

SECTION 9.12. Confidentiality. Each of the Administrative Agent, the Issuing Bank and the Lenders agrees to maintain the confidentiality of the Information (as defined below), except that Information may be disclosed (a) to its and its Affiliates' directors, officers, employees and agents, including accountants, legal counsel and other advisors (it being understood that the Persons to whom such disclosure is made will be informed of the confidential nature of such Information and instructed to keep such Information confidential), (b) to the extent requested by any Governmental Authority (including any self-regulatory authority, such as the National Association of Insurance Commissioners), (c) to the extent required by any Requirement of Law or by any subpoena or similar legal process, (d) to any other party to this Agreement, (e) in connection with the exercise of any remedies hereunder or under any other Loan Document or any suit, action or proceeding relating to this Agreement or any other Loan Document or the enforcement of rights hereunder or thereunder, (f) subject to an agreement containing provisions substantially the same as those of this Section, to (i) any assignee of or Participant in, or any prospective assignee of or Participant in, any of its rights or obligations under this Agreement or (ii) any actual or prospective counterparty (or its advisors) to any swap or derivative transaction relating to the Borrower and its obligations, (g) with the consent of the Borrower or (h) to the extent such Information (i) becomes publicly available other than as a result of a breach of this Section or (ii) becomes available to the Administrative Agent, the Issuing Bank or any Lender on a non-confidential basis from a source other than the Borrower. For the purposes of this Section, "***Information***" means all information received from the Borrower relating to the Borrower or its business, other than any such information that is available to the Administrative Agent, the Issuing Bank or any Lender on a non-confidential basis prior to disclosure by the Borrower and other than information pertaining to this Agreement routinely provided by arrangers to data service providers, including league table providers, that serve the lending industry; provided that, in the case of information received from the Borrower after the date hereof, such information is clearly identified at the time of delivery as confidential. Any Person required to maintain the confidentiality of Information as provided in this Section shall be considered to have complied with its obligation to do so if such Person has exercised the same degree of care to maintain the confidentiality of such Information as such Person would accord to its own confidential information.

SECTION 9.13. Material Non-Public Information.

(a) EACH LENDER ACKNOWLEDGES THAT INFORMATION AS DEFINED IN SECTION 9.12(a) FURNISHED TO IT PURSUANT TO THIS AGREEMENT MAY INCLUDE MATERIAL NON-PUBLIC INFORMATION CONCERNING THE BORROWER AND ITS RELATED PARTIES OR THEIR RESPECTIVE SECURITIES, AND CONFIRMS THAT IT HAS DEVELOPED COMPLIANCE PROCEDURES REGARDING THE USE OF MATERIAL NON-PUBLIC INFORMATION AND THAT IT WILL HANDLE SUCH MATERIAL NON-PUBLIC INFORMATION IN ACCORDANCE WITH THOSE PROCEDURES AND APPLICABLE LAW, INCLUDING FEDERAL AND STATE SECURITIES LAWS.

(b) ALL INFORMATION, INCLUDING REQUESTS FOR WAIVERS AND AMENDMENTS, FURNISHED BY THE BORROWER OR THE ADMINISTRATIVE AGENT PURSUANT TO, OR IN THE COURSE OF ADMINISTERING, THIS AGREEMENT WILL BE

SYNDICATE-LEVEL INFORMATION, WHICH MAY CONTAIN MATERIAL NON-PUBLIC INFORMATION ABOUT THE BORROWER, THE LOAN PARTIES AND THEIR RELATED PARTIES OR THEIR RESPECTIVE SECURITIES. ACCORDINGLY, EACH LENDER REPRESENTS TO THE BORROWER AND THE ADMINISTRATIVE AGENT THAT IT HAS IDENTIFIED IN ITS ADMINISTRATIVE QUESTIONNAIRE A CREDIT CONTACT WHO MAY RECEIVE INFORMATION THAT MAY CONTAIN MATERIAL NON-PUBLIC INFORMATION IN ACCORDANCE WITH ITS COMPLIANCE PROCEDURES AND APPLICABLE LAW.

SECTION 9.14. Interest Rate Limitation. Notwithstanding anything herein to the contrary, if at any time the interest rate applicable to any Loan, together with all fees, charges and other amounts which are treated as interest on such Loan under applicable law (collectively the "***Charges***"), shall exceed the maximum lawful rate (the "***Maximum Rate***") which may be contracted for, charged, taken, received or reserved by the Lender holding such Loan in accordance with applicable law, the rate of interest payable in respect of such Loan hereunder, together with all Charges payable in respect thereof, shall be limited to the Maximum Rate and, to the extent lawful, the interest and Charges that would have been payable in respect of such Loan but were not payable as a result of the operation of this Section shall be cumulated and the interest and Charges payable to such Lender in respect of other Loans or periods shall be increased (but not above the Maximum Rate therefor) until such cumulated amount, together with interest thereon at the Federal Funds Effective Rate to the date of repayment, shall have been received by such Lender.

SECTION 9.15. USA PATRIOT Act. Each Lender that is subject to the requirements of the USA Patriot Act hereby notifies the Borrower that pursuant to the requirements of the Act, it is required to obtain, verify and record information that identifies the Borrower, which information includes the name and address of the Borrower and other information that will allow such Lender to identify the Borrower in accordance with the Act.

SECTION 9.16. Acknowledgement and Consent to Bail-In of EEA Financial Institutions. Notwithstanding anything to the contrary in any Loan Document or in any other agreement, arrangement or understanding among any such parties, each party hereto acknowledges that any liability of any EEA Financial Institution arising under any Loan Document may be subject to the Write-Down and Conversion Powers of an EEA Resolution Authority and agrees and consents to, and acknowledges and agrees to be bound by:

(a) the application of any Write-Down and Conversion Powers by an EEA Resolution Authority to any such liabilities arising hereunder which may be payable to it by any party hereto that is an EEA Financial Institution; and

(b) the effects of any Bail-In Action on any such liability, including, if applicable:

(i) a reduction in full or in part or cancellation of any such liability;

(ii) a conversion of all, or a portion of, such liability into shares or other instruments of ownership in such EEA Financial Institution, its parent entity, or a bridge institution that may be issued to it or otherwise conferred on it, and that such shares or other instruments of ownership will be accepted by it in lieu of any rights with respect to any such liability under this Agreement or any other Loan Document; or

(iii) the variation of the terms of such liability in connection with the exercise of the Write-Down and Conversion Powers of any EEA Resolution Authority.

SECTION 9.17. No Fiduciary Duty, etc.

(a) The Borrower acknowledges and agrees, and acknowledges its Subsidiaries' understanding, that no Credit Party will have any obligations except those obligations expressly set forth herein and in the other Loan Documents and each Credit Party is acting solely in the capacity of an arm's length contractual counterparty to the Borrower with respect to the Loan Documents and the transactions contemplated herein and therein and not as a financial advisor or a fiduciary to, or an agent of, the Borrower or any other person. The Borrower agrees that it will not assert any claim against any Credit Party based on an alleged breach of fiduciary duty by such Credit Party in connection with this Agreement and the transactions contemplated hereby. Additionally, the Borrower acknowledges and agrees that no Credit Party is advising the Borrower as to any legal, tax, investment, accounting, regulatory or any other matters in any jurisdiction. The Borrower shall consult with its own advisors concerning such matters and shall be responsible for making its own independent investigation and appraisal of the transactions contemplated herein or in the other Loan Documents, and the Credit Parties shall have no responsibility or liability to the Borrower with respect thereto.

(b) The Borrower further acknowledges and agrees, and acknowledges its Subsidiaries' understanding, that each Credit Party, together with its Affiliates, is a full service securities or banking firm engaged in securities trading and brokerage activities as well as providing investment banking and other financial services. In the ordinary course of business, any Credit Party may provide investment banking and other financial services to, and/or acquire, hold or sell, for its own accounts and the accounts of customers, equity, debt and other securities and financial instruments (including bank loans and other obligations) of, the Borrower and other companies with which the Borrower may have commercial or other relationships. With respect to any securities and/or financial instruments so held by any Credit Party or any of its customers, all rights in respect of such securities and financial instruments, including any voting rights, will be exercised by the holder of the rights, in its sole discretion.

(c) In addition, the Borrower acknowledges and agrees, and acknowledges its Subsidiaries' understanding, that each Credit Party and its affiliates may be providing debt financing, equity capital or other services (including financial advisory services) to other companies in respect of which the Borrower may have conflicting interests regarding the transactions described herein and otherwise. No Credit Party will use confidential information obtained from the Borrower by virtue of the transactions contemplated by the Loan Documents or its other relationships with the Borrower in connection with the performance by such Credit Party of services for other companies, and no Credit Party will furnish any such information to other companies. The Borrower also acknowledges that no Credit Party has any obligation to use in connection with the transactions contemplated by the Loan Documents, or to furnish to the Borrower, confidential information obtained from other companies.

SECTION 9.18. Amendment and Restatement; Reaffirmation. The parties hereto agree that, on the Restatement Effective Date, the following transactions shall be deemed to occur automatically, without further action by any party hereto:

(a) The Existing Credit Agreement shall be deemed to be amended and restated in its entirety in the form of and pursuant to this Agreement and the terms of this Agreement shall replace and supersede the Existing Credit Agreement (which shall hereafter have no further effect upon the parties thereto other than with respect to any action, event, representation, warranty or covenant occurring, made or applying prior to the Restatement Effective Date).

(b) All "Revolving Loans" outstanding under the Existing Credit Agreement shall be deemed to be Revolving Loans under this Agreement. All other "Obligations" existing under the Existing Credit Agreement shall be deemed to be outstanding under this Agreement and, in each case (i) are in all

respects enforceable with only the terms thereof being modified as provided by this Agreement and (ii) shall in all respects be continuing after the Restatement Effective Date and shall be deemed to be Obligations governed by this Agreement.

(c) All references to the Existing Credit Agreement or the "Credit Agreement" in the existing Loan Documents executed in connection with the Original Credit Agreement (the "***Existing Loan Documents***"), whether on the Existing Credit Agreement's "Restatement Effective Date" or at any time thereafter but prior to the Restatement Effective Date, shall be deemed to include references to this Agreement, as amended, restated, supplemented or otherwise modified from time to time.

(d) The Borrower hereby acknowledges and agrees that each of the Existing Loan Documents that are not superseded by corresponding Loan Documents executed and delivered in connection with this Agreement to which the Borrower is a party remains in full force and effect. The Borrower hereby (i) ratifies and reaffirms all of its repayment and performance obligations, including obligations to indemnify, contingent or otherwise, under each of such Existing Loan Documents to which it is a party, (ii) ratifies and reaffirms its grant of liens on, or security interests in, its properties pursuant to such Existing Loan Documents to which it is a party as security for the Secured Obligations under or with respect to this Agreement, (iii) confirms and agrees that such liens and security interests secure all of the Secured Obligations, in each case as if each reference in such Existing Loan Documents to the obligations secured thereby are construed to mean and refer to such Secured Obligations under this Agreement. To the extent the Borrower guaranteed any of the Secured Obligations as defined in the Existing Credit Agreement pursuant to any of such Existing Loan Documents as security for such Secured Obligations, the Borrower, hereby ratifies and reaffirms such guaranty and agrees that such guaranty secures all of the Secured Obligations under this Agreement and remain in full force and effect after giving effect to this Agreement. The execution, delivery and effectiveness of this Agreement shall not operate as a waiver of any right, power or remedy of the Administrative Agent or the Lenders under the Existing Credit Agreement or any Existing Loan Document, nor constitute a waiver of any provision of the Existing Credit Agreement or any other Existing Loan Document, except as specifically set forth therein or in a corresponding Loan Document.

(e) Each party to this Agreement acknowledges and agrees that this Agreement and the documents executed and delivered in connection herewith do not constitute a novation, payment and reborrowing or termination of any of the Obligations under the Existing Credit Agreement as in effect prior to the Restatement Effective Date or a novation or payment and reborrowing of any amount owing under the Existing Credit Agreement as in effect prior to the Restatement Effective Date.

[Signatures Immediately Follow]

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be duly executed and delivered by their respective authorized officers as of the day and year first above written.

DEXCOM, INC.

By: /s/ Quentin S. Blackford
Name: Quentin S. Blackford
Title: Executive Vice President and
Chief Financial Officer

JPMORGAN CHASE BANK, N.A.,
individually and as Administrative Agent and
Issuing Bank

By: /s/ Ling Li
Name: Ling Li
Title: Executive Director

BANK OF AMERICA N.A.

By: /s/ Sebastian Lurie
Name: Sebastian Lurie
Title: SVP

SILICON VALLEY BANK

By: /s/ Joseph C. Hammer

Name: Joseph C. Hammer
Title: Managing Director

BANK OF THE WEST

By: /s/ Jason Antrim
Name: Jason Antrim
Title: Vice President

UNION BANK

By: /s/ Edmund Ozorio
Name: Edmund Ozorio
Title: Vice President

SCHEDULE 2.01

Commitment Schedule

Lender	Commitment	Letter of Credit Commitment
JPMorgan Chase Bank, National Association	$60,000,000.00	$10,000,000
Bank of America N.A.	$55,000,000.00	--
Silicon Valley Bank	$35,000,000.00	--
Bank of the West	$25,000,000.00	--
Union Bank	$25,000,000.00	--
Total	**$200,000,000.00**	**$10,000,000**

EXHIBIT A
ASSIGNMENT AND ASSUMPTION

This Assignment and Assumption (the "***Assignment and Assumption***") is dated as of the Effective Date set forth below and is entered into by and between [*Insert name of Assignor*] (the "***Assignor***") and [*Insert name of Assignee*] (the "***Assignee***"). Capitalized terms used but not defined herein shall have the meanings given to them in the Credit Agreement identified below (as amended, supplemented or otherwise modified from time to time, the "***Credit Agreement***"), receipt of a copy of which is hereby acknowledged by the Assignee. The Standard Terms and Conditions set forth in Annex 1 attached hereto are hereby agreed to and incorporated herein by reference and made a part of this Assignment and Assumption as if set forth herein in full.

For an agreed consideration, the Assignor hereby irrevocably sells and assigns to the Assignee, and the Assignee hereby irrevocably purchases and assumes from the Assignor, subject to and in accordance with the Standard Terms and Conditions and the Credit Agreement, as of the Effective Date inserted by the Administrative Agent as contemplated below (i) all of the Assignor's rights and obligations in its capacity as a Lender under the Credit Agreement and any other documents or instruments delivered pursuant thereto to the extent related to the amount and percentage interest identified below of all of such outstanding rights and obligations of the Assignor under the respective facilities identified below (including any letters of credit and guarantees included in such facilities) and (ii) to the extent permitted to be assigned under applicable law, all claims, suits, causes of action and any other right of the Assignor (in its capacity as a Lender) against any Person, whether known or unknown, arising under or in connection with the Credit Agreement, any other documents or instruments delivered pursuant thereto or the loan transactions governed thereby or in any way based on or related to any of the foregoing, including contract claims, tort claims, malpractice claims, statutory claims and all other claims at law or in equity related to the rights and obligations sold and assigned pursuant to clause (i) above (the rights and obligations sold and assigned pursuant to clauses (i) and (ii) above being referred to herein collectively as the "***Assigned Interest***"). Such sale and assignment is without recourse to the Assignor and, except as expressly provided in this Assignment and Assumption, without representation or warranty by the Assignor.

1. Assignor: _____

2. Assignee: _____

[and is an Affiliate/Approved Fund of [*identify Lender*][1]]

3. Borrower: DexCom, Inc.

4. Administrative Agent: JPMorgan Chase Bank, N.A., as the administrative agent under the Credit Agreement

5. Credit Agreement: The $200,000,000 Amended and Restated Credit Agreement dated as of December 19, 2018 among DexCom, Inc., the Lenders parties thereto, JPMorgan Chase Bank, National Association, as Administrative Agent

6. Assigned Interest:

[1] Select as applicable.

Facility Assigned[2]	Aggregate Amount of Commitment/Loans for all Lenders	Amount of Commitment/Loans Assigned	Percentage Assigned of Commitment/Loans[3]
	$	$	%
	$	$	%
	$	$	%

Effective Date: _____ ___, 20___ [TO BE INSERTED BY ADMINISTRATIVE AGENT AND WHICH SHALL BE THE EFFECTIVE DATE OF RECORDATION OF TRANSFER IN THE REGISTER THEREFOR.]

The Assignee agrees to deliver to the Administrative Agent a completed Administrative Questionnaire in which the Assignee designates one or more credit contacts to whom all syndicate-level information (which may contain material non-public information about the Borrower[, the Loan Parties] and [its] [their] Related Parties or their respective securities) will be made available and who may receive such information in accordance with the Assignee's compliance procedures and applicable laws, including federal and state securities laws.

The terms set forth in this Assignment and Assumption are hereby agreed to:

ASSIGNOR

[NAME OF ASSIGNOR]

By: _____
Title:

ASSIGNEE
[NAME OF ASSIGNEE]

By: _____
Title:

[2] Fill in the appropriate terminology for the types of facilities under the Credit Agreement that are being assigned under this Assignment (e.g., "Revolving Commitment").

[3] Set forth, to at least 9 decimals, as a percentage of the Commitment/Loans of all Lenders thereunder.

[Consented to and][4] Accepted:

JPMORGAN CHASE BANK, NATIONAL ASSOCIATION, as
Administrative Agent

By_____
Title:

[Consented to:][5]

[NAME OF RELEVANT PARTY]

By_____
Title:

[4] To be added only if the consent of the Administrative Agent is required by the terms of the Credit Agreement.
[5] To be added only if the consent of the Borrower and/or other parties (e.g. Issuing Bank) is required by the terms of the Credit Agreement.

DEXCOM, INC.
STANDARD TERMS AND CONDITIONS FOR
ASSIGNMENT AND ASSUMPTION

1. Representations and Warranties.

1.1 Assignor. The Assignor (a) represents and warrants that (i) it is the legal and beneficial owner of the Assigned Interest, (ii) the Assigned Interest is free and clear of any lien, encumbrance or other adverse claim and (iii) it has full power and authority, and has taken all action necessary, to execute and deliver this Assignment and Assumption and to consummate the transactions contemplated hereby; and (b) assumes no responsibility with respect to (i) any statements, warranties or representations made in or in connection with the Credit Agreement or any other Loan Document, (ii) the execution, legality, validity, enforceability, genuineness, sufficiency or value of the Loan Documents or any collateral thereunder, (iii) the financial condition of the Borrower, any of its Subsidiaries or Affiliates or any other Person obligated in respect of the Credit Agreement, (iv) any requirements under applicable law for the Assignee to become a lender under the Credit Agreement or any other Loan Document or to charge interest at the rate set forth therein from time to time or (v) the performance or observance by the Borrower, any of its Subsidiaries or Affiliates or any other Person of any of their respective obligations under the any Loan Document.

1.2. Assignee. The Assignee (a) represents and warrants that (i) it has full power and authority, and has taken all action necessary, to execute and deliver this Assignment and Assumption and to consummate the transactions contemplated hereby and to become a Lender under the Credit Agreement, (ii) it satisfies the requirements, if any, specified in the Credit Agreement and under applicable law that are required to be satisfied by it in order to acquire the Assigned Interest and become a Lender, (iii) from and after the Effective Date, it shall be bound by the provisions of the Credit Agreement as a Lender thereunder and, to the extent of the Assigned Interest, shall have the obligations of a Lender thereunder, (iv) it has received a copy of the Credit Agreement, together with copies of the most recent financial statements delivered pursuant to Section 5.01 thereof, as applicable, and such other documents and information as it has deemed appropriate to make its own credit analysis and decision to enter into this Assignment and Assumption and to purchase the Assigned Interest on the basis of which it has made such analysis and decision independently and without reliance on the Administrative Agent or any other Lender, and (v) attached to the Assignment and Assumption is any documentation required to be delivered by it pursuant to the terms of the Credit Agreement, duly completed and executed by the Assignee; and (b) agrees that (i) it will, independently and without reliance on the Administrative Agent, the Assignor or any other Lender, and based on such documents and information as it shall deem appropriate at the time, continue to make its own credit decisions in taking or not taking action under the Loan Documents, and (ii) it will perform in accordance with their terms all of the obligations which by the terms of the Loan Documents are required to be performed by it as a Lender.

2. Payments. From and after the Effective Date, the Administrative Agent shall make all payments in respect of the Assigned Interest (including payments of principal, interest, fees and other amounts) to the Assignor for amounts which have accrued to but excluding the Effective Date and to the Assignee for amounts which have accrued from and after the Effective Date.

3. General Provisions. This Assignment and Assumption shall be binding upon, and inure to the benefit of, the parties hereto and their respective successors and assigns. This Assignment and Assumption may be executed in any number of counterparts, which together shall constitute one instrument. Acceptance and adoption of the terms of this Assignment and Assumption by the Assignee and the Assignor by Electronic Signature (as defined in the Credit Agreement) or delivery of an executed counterpart of a signature page of this Assignment and Assumption by any Approved Electronic Platform (as defined in the Credit

Agreement) shall be effective as delivery of a manually executed counterpart of this Assignment and Assumption. This Assignment and Assumption shall be governed by, and construed in accordance with, the law of the State of New York.

EXHIBIT B

[RESERVED]

EXHIBIT C-1
FORM OF
U.S. TAX COMPLIANCE CERTIFICATE

(For Foreign Lenders That Are Not Partnerships For U.S. Federal Income Tax Purposes)

Reference is hereby made to the Amended and Restated Credit Agreement dated as of December 19, 2018 (as amended, supplemented or otherwise modified from time to time, the "***Credit Agreement***"), among DexCom, Inc., each lender from time to time party thereto and JPMorgan Chase Bank, National Association, as Administrative Agent.

Pursuant to the provisions of Section 2.17 of the Credit Agreement, the undersigned hereby certifies that (i) it is the sole record and beneficial owner of the Loan(s) (as well as any promissory note(s) evidencing such Loan(s)) in respect of which it is providing this certificate, (ii) it is not a bank within the meaning of Section 881(c)(3)(A) of the Code, (iii) it is not a ten percent shareholder of the Borrower within the meaning of Section 871(h)(3)(B) of the Code and (iv) it is not a controlled foreign corporation related to the Borrower as described in Section 881(c)(3)(C) of the Code.

The undersigned has furnished the Administrative Agent and the Borrower with a certificate of its non-U.S. Person status on IRS Form W-8BEN-E or IRS Form W-8BEN. By executing this certificate, the undersigned agrees that (1) if the information provided on this certificate changes, the undersigned shall promptly so inform the Borrower and the Administrative Agent, and (2) the undersigned shall have at all times furnished the Borrower and the Administrative Agent with a properly completed and currently effective certificate prior to the first payment to be made to the undersigned, or in either of the two calendar years preceding such payments.

Unless otherwise defined herein, terms defined in the Credit Agreement and used herein shall have the meanings given to them in the Credit Agreement.

[NAME OF LENDER]

By:__
Name:
Title:
Date: _____ __, 20[ ]

EXHIBIT C-2
FORM OF
U.S. TAX COMPLIANCE CERTIFICATE
(For Foreign Participants That Are Not Partnerships For U.S. Federal Income Tax Purposes)

Reference is hereby made to the Amended and Restated Credit Agreement dated as of December 19, 2018 (as amended, supplemented or otherwise modified from time to time, the "***Credit Agreement***"), among DexCom, Inc., each lender from time to time party thereto and JPMorgan Chase Bank, National Association, as Administrative Agent.

Pursuant to the provisions of Section 2.17 of the Credit Agreement, the undersigned hereby certifies that (i) it is the sole record and beneficial owner of the participation in respect of which it is providing this certificate, (ii) it is not a bank within the meaning of Section 881(c)(3)(A) of the Code, (iii) it is not a ten percent shareholder of the Borrower within the meaning of Section 871(h)(3)(B) of the Code, and (iv) it is not a controlled foreign corporation related to the Borrower as described in Section 881(c)(3)(C) of the Code.

The undersigned has furnished its participating Lender with a certificate of its non-U.S. Person status on IRS Form W-8BEN-E or IRS Form W-8BEN. By executing this certificate, the undersigned agrees that (1) if the information provided on this certificate changes, the undersigned shall promptly so inform such Lender in writing, and (2) the undersigned shall have at all times furnished such Lender with a properly completed and currently effective certificate prior to the first payment to be made to the undersigned, or in either of the two calendar years preceding such payments.

Unless otherwise defined herein, terms defined in the Credit Agreement and used herein shall have the meanings given to them in the Credit Agreement.

[NAME OF PARTICIPANT]

By:__
Name:
Title:

Date: _____ __, 20[ ]

EXHIBIT C-3
FORM OF
U.S. TAX COMPLIANCE CERTIFICATE
(For Foreign Participants That Are Partnerships For U.S. Federal Income Tax Purposes)

Reference is hereby made to the Amended and Restated Credit Agreement dated as of December 19, 2018 (as amended, supplemented or otherwise modified from time to time, the "***Credit Agreement***"), among DexCom, Inc., each lender from time to time party thereto and JPMorgan Chase Bank, National Association, as Administrative Agent.

Pursuant to the provisions of Section 2.17 of the Credit Agreement, the undersigned hereby certifies that (i) it is the sole record owner of the participation in respect of which it is providing this certificate, (ii) its direct or indirect partners/members are the sole beneficial owners of such participation, (iii) with respect such participation, neither the undersigned nor any of its direct or indirect partners/members is a bank extending credit pursuant to a loan agreement entered into in the ordinary course of its trade or business within the meaning of Section 881(c)(3)(A) of the Code, (iv) none of its direct or indirect partners/members is a ten percent shareholder of the Borrower within the meaning of Section 871(h)(3)(B) of the Code and (v) none of its direct or indirect partners/members is a controlled foreign corporation related to the Borrower as described in Section 881(c)(3)(C) of the Code.

The undersigned has furnished its participating Lender with IRS Form W-8IMY accompanied by one of the following forms from each of its partners/members that is claiming the portfolio interest exemption: (i) an IRS Form W-8BEN-E or IRS Form W-8BEN or (ii) an IRS Form W-8IMY accompanied by a withholding statement together with an IRS Form W-8BEN-E or IRS Form W-8BEN from each of such partner's/member's beneficial owners that is claiming the portfolio interest exemption. By executing this certificate, the undersigned agrees that (1) if the information provided on this certificate changes, the undersigned shall promptly so inform such Lender and (2) the undersigned shall have at all times furnished such Lender with a properly completed and currently effective certificate prior to the first payment to be made to the undersigned, or in either of the two calendar years preceding such payments.

Unless otherwise defined herein, terms defined in the Credit Agreement and used herein shall have the meanings given to them in the Credit Agreement.

[NAME OF PARTICIPANT]

By:
Name:
Title:

Date: _____ __, 20[ ]

EXHIBIT C-4
FORM OF
U.S. TAX COMPLIANCE CERTIFICATE
(For Foreign Lenders That Are Partnerships For U.S. Federal Income Tax Purposes)

Reference is hereby made to the Amended and Restated Credit Agreement dated as of December 19, 2018 (as amended, supplemented or otherwise modified from time to time, the "***Credit Agreement***"), among DexCom, Inc., each lender from time to time party thereto and JPMorgan Chase Bank, National Association, as Administrative Agent.

Pursuant to the provisions of Section 2.17 of the Credit Agreement, the undersigned hereby certifies that (i) it is the sole record owner of the Loan(s) (as well as any promissory note(s) evidencing such Loan(s)) in respect of which it is providing this certificate, (ii) its direct or indirect partners/members are the sole beneficial owners of such Loan(s) (as well as any promissory note(s) evidencing such Loan(s)), (iii) with respect to the extension of credit pursuant to this Credit Agreement or any other Loan Document, neither the undersigned nor any of its direct or indirect partners/members is a bank extending credit pursuant to a loan agreement entered into in the ordinary course of its trade or business within the meaning of Section 881(c)(3)(A) of the Code, (iv) none of its direct or indirect partners/members is a ten percent shareholder of the Borrower within the meaning of Section 871(h)(3)(B) of the Code and (v) none of its direct or indirect partners/members is a controlled foreign corporation related to the Borrower as described in Section 881(c)(3)(C) of the Code.

The undersigned has furnished the Administrative Agent and the Borrower with IRS Form W-8IMY accompanied by one of the following forms from each of its partners/members that is claiming the portfolio interest exemption: (i) an IRS Form W-8BEN-E or IRS Form W-8BEN or (ii) an IRS Form W-8IMY accompanied by a withholding statement together with an IRS Form W-8BEN-E or IRS Form W-8BEN from each of such partner's/member's beneficial owners that is claiming the portfolio interest exemption. By executing this certificate, the undersigned agrees that (1) if the information provided on this certificate changes, the undersigned shall promptly so inform the Borrower and the Administrative Agent, and (2) the undersigned shall have at all times furnished the Borrower and the Administrative Agent with a properly completed and currently effective certificate prior to the first payment to be made to the undersigned, or in either of the two calendar years preceding such payments.

Unless otherwise defined herein, terms defined in the Credit Agreement and used herein shall have the meanings given to them in the Credit Agreement.

[NAME OF LENDER]

By:
Name:
Title:
Date: _____ __, 20[ ]

Exhibit 21.01

DEXCOM, INC.

SUBSIDIARY **(Name under which subsidiary does business)**	**JURISDICTION OF INCORPORATION**
SweetSpot Diabetes Care, Inc.	Delaware
TypeZero Technologies, Inc.	Delaware
DexCapital, LLC	Delaware
The Glucose Program, LLC	Delaware
DexCom (Canada) Inc.	Canada
DexCom Philippines, Inc.	Philippines
DexCom (UK) Ltd.	United Kingdom
DexCom (UK) Intermediate Holdings Ltd.	United Kingdom
DexCom Operating Ltd.	United Kingdom
DexCom International Ltd.	United Kingdom
DexCom (UK) Distribution Ltd.	United Kingdom
Nintamed Handels GmbH	Austria
DexCom Deutschland GmbH	Germany
DexCom Kommanditbolag	Sweden
DexCom Suisse GmbH	Switzerland

Exhibit 23.01

CONSENT OF INDEPENDENT REGISTERED PUBLIC ACCOUNTING FIRM

We consent to the incorporation by reference in the following Registration Statements:

(1) Registration Statements (Form S-3 Nos. 333-206619, 333-211101 and 333-228495) of DexCom, Inc., and

(2) Registration Statements (Form S-8 Nos. 333-124059, 333-138174, 333-145159, 333-149734, 333-158993, 333-166552, 333-172604, 333-180421, 333-188305, 333-195660, 333-202375, 333-204699 and 333-218562) pertaining to the 2005 Equity Incentive Plan, 2005 Employee Stock Purchase Plan, 1999 Stock Option Plan, 2015 Amended and Restated Equity Incentive Plan and 2015 Employee Stock Purchase Plan of DexCom, Inc.;

of our reports dated February 21, 2019, with respect to the consolidated financial statements and schedule of DexCom, Inc., and the effectiveness of internal control over financial reporting of DexCom, Inc., included in this Annual Report (Form 10-K) of DexCom, Inc. for the year ended December 31, 2018.

/s/ Ernst & Young LLP

San Diego, California
February 21, 2019

Exhibit 31.01

CERTIFICATION OF CHIEF EXECUTIVE OFFICER
PURSUANT TO SECTION 302 OF THE SARBANES-OXLEY ACT OF 2002

I, Kevin R. Sayer, certify that:

1. I have reviewed this annual report on Form 10-K of DexCom, Inc.;

2. Based on my knowledge, this report does not contain any untrue statement of a material fact or omit to state a material fact necessary to make the statements made, in light of the circumstances under which such statements were made, not misleading with respect to the period covered by this report;

3. Based on my knowledge, the financial statements, and other financial information included in this report, fairly present in all material respects the financial condition, results of operations and cash flows of the registrant as of, and for, the periods presented in this report;

4. The registrant's other certifying officer and I are responsible for establishing and maintaining disclosure controls and procedures (as defined in Exchange Act Rules 13a-15(e) and 15d-15(e)) and internal control over financial reporting (as defined in Exchange Act Rules 13a-15(f) and 15d-15(f)) for the registrant and have:

a) designed such disclosure controls and procedures, or caused such disclosure controls and procedures to be designed under our supervision, to ensure that material information relating to the registrant, including any consolidated subsidiaries, is made known to us by others within those entities, particularly during the period in which this report is being prepared;

b) designed such internal control over financial reporting, or caused such internal control over financial reporting to be designed under our supervision, to provide reasonable assurance regarding the reliability of financial reporting and the preparation of financial statements for external purposes in accordance with generally accepted accounting principles;

c) evaluated the effectiveness of the registrant's disclosure controls and procedures and presented in this report our conclusions about the effectiveness of the disclosure controls and procedures, as of the end of the period covered by this report based on such evaluation; and

d) disclosed in this report any change in the registrant's internal control over financial reporting that occurred during the registrant's most recent fiscal quarter that has materially affected, or is reasonably likely to materially affect, the registrant's internal control over financial reporting; and

5. The registrant's other certifying officer and I have disclosed, based on our most recent evaluation of internal control over financial reporting, to the registrant's auditors and the audit committee of the registrant's board of directors (or persons performing the equivalent functions):

a) all significant deficiencies and material weaknesses in the design or operation of internal control over financial reporting which are reasonably likely to adversely affect the registrant's ability to record, process, summarize and report financial information; and

b) any fraud, whether or not material, that involves management or other employees who have a significant role in the registrant's internal control over financial reporting.

February 21, 2019

By: /s/ Kevin R. Sayer

Kevin R. Sayer
Chairman of the Board of Directors, President and
Chief Executive Officer
(Principal Executive Officer)

Exhibit 31.02

CERTIFICATION OF CHIEF FINANCIAL OFFICER
PURSUANT TO SECTION 302 OF THE SARBANES-OXLEY ACT OF 2002

I, Quentin S. Blackford, certify that:

1. I have reviewed this annual report on Form 10-K of DexCom, Inc.;

2. Based on my knowledge, this report does not contain any untrue statement of a material fact or omit to state a material fact necessary to make the statements made, in light of the circumstances under which such statements were made, not misleading with respect to the period covered by this report;

3. Based on my knowledge, the financial statements, and other financial information included in this report, fairly present in all material respects the financial condition, results of operations and cash flows of the registrant as of, and for, the periods presented in this report;

4. The registrant's other certifying officer and I are responsible for establishing and maintaining disclosure controls and procedures (as defined in Exchange Act Rules 13a-15(e) and 15d-15(e)) and internal control over financial reporting (as defined in Exchange Act Rules 13a-15(f) and 15d-15(f)) for the registrant and have:

a) designed such disclosure controls and procedures, or caused such disclosure controls and procedures to be designed under our supervision, to ensure that material information relating to the registrant, including any consolidated subsidiaries, is made known to us by others within those entities, particularly during the period in which this report is being prepared;

b) designed such internal control over financial reporting, or caused such internal control over financial reporting to be designed under our supervision, to provide reasonable assurance regarding the reliability of financial reporting and the preparation of financial statements for external purposes in accordance with generally accepted accounting principles;

c) evaluated the effectiveness of the registrant's disclosure controls and procedures and presented in this report our conclusions about the effectiveness of the disclosure controls and procedures, as of the end of the period covered by this report based on such evaluation; and

d) disclosed in this report any change in the registrant's internal control over financial reporting that occurred during the registrant's most recent fiscal quarter that has materially affected, or is reasonably likely to materially affect, the registrant's internal control over financial reporting; and

5. The registrant's other certifying officer and I have disclosed, based on our most recent evaluation of internal control over financial reporting, to the registrant's auditors and the audit committee of the registrant's board of directors (or persons performing the equivalent functions):

a) all significant deficiencies and material weaknesses in the design or operation of internal control over financial reporting which are reasonably likely to adversely affect the registrant's ability to record, process, summarize and report financial information; and

b) any fraud, whether or not material, that involves management or other employees who have a significant role in the registrant's internal control over financial reporting.

February 21, 2019

By: /s/ Quentin S. Blackford

Quentin S. Blackford
Executive Vice President and Chief Financial Officer
(Principal Financial and Accounting Officer)

Exhibit 32.01

CERTIFICATION OF CHIEF EXECUTIVE OFFICER
PURSUANT TO
18 U.S.C SECTION 1350

The undersigned, Kevin R. Sayer, the President and Chief Executive Officer of DexCom, Inc. (the "Company"), pursuant to 18 U.S.C. §1350, hereby certifies that:

(i) the annual Report on Form 10-K for the period ended December 31, 2018 of the Company (the "Report") fully complies with the requirements of Section 13(a) or 15(d) of the Securities Exchange Act of 1934.

(ii) the information contained in the Report fairly presents, in all material respects, the financial condition and results of operations of the Company.

Dated: February 21, 2019

/s/ Kevin R. Sayer

Kevin R. Sayer
Chairman of the Board of Directors, President and
Chief Executive Officer
(Principal Executive Officer)

Exhibit 32.02

CERTIFICATION OF CHIEF FINANCIAL OFFICER
PURSUANT TO
18 U.S.C. SECTION 1350

The undersigned, Quentin S. Blackford, Chief Financial Officer of DexCom, Inc. (the "Company"), pursuant to 18 U.S.C. §1350, hereby certifies:

(i) the annual Report on Form 10-K for the period ended December 31, 2018 of the Company (the "Report") fully complies with the requirements of Section 13(a) and 15(d) of the Securities Exchange Act of 1934; and

(ii) the information contained in the Report fairly presents, in all material respects, the financial condition and results of operations of the Company.

Dated: February 21, 2019

/s/ Quentin S. Blackford

Quentin S. Blackford
Executive Vice President and Chief Financial Officer
(Principal Financial and Accounting Officer)