

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

FORM 8-K

CURRENT REPORT

Pursuant to Section 13 or 15(d) of  
The Securities Exchange Act of 1934

Date of Report (Date of earliest event reported): July 16, 2021

**MOTUS GI HOLDINGS, INC.**  
(Exact name of registrant as specified in its charter)

**Delaware**

(State or other jurisdiction  
of incorporation)

**001-38389**

(Commission  
File Number)

**81-4042793**

(IRS Employer  
Identification No.)

**1301 East Broward Boulevard, 3rd Floor  
Ft. Lauderdale, FL**

(Address of principal executive offices)

**33301**

(Zip Code)

Registrant's telephone number, including area code: **(954) 541-8000**

**Not Applicable**

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

Check the appropriate box below if the Form 8-K filing is intended to simultaneously satisfy the filing obligation of the registrant under any of the following provisions (see General Instruction A.2. below):

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

Indicate by check mark whether the registrant is an emerging growth company as defined in Rule 405 of the Securities Act of 1933 (17 CFR §230.405) or Rule 12b-2 of the Securities Exchange Act of 1934 (17 CFR §240.12b-2).

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.

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

Title of Each Class	Trading Symbol(s)	Name of Each Exchanged on Which Registered
Common Stock, \$0.0001 par value per share	MOTS	The Nasdaq Capital Market

**Item 1.01 Entry into Material Definitive Agreement.**

*Kreos Capital Loan and Security Agreements*

On July 16, 2021 (the “**Effective Date**”), Motus GI Holdings, Inc. (the “**Company**”) and its wholly owned subsidiaries, Motus GI, LLC (the “**US Subsidiary**”) and Motus GI Medical Technologies, LTD (the “**IL Subsidiary**”) together with the Company and the US Subsidiary, the “**Borrower**”), entered into that certain Agreement for the Provision of a Loan Facility (the “**Loan Agreement**”) with Kreos Capital VI (Expert Fund) LC (“**Lender**”), a limited partnership incorporated in Jersey. Under the Loan Agreement, Lender will provide the Company with access to term loans in an aggregate principal amount of up to \$12.0 million in three tranches as follows: (a) on the Effective Date, a loan in the aggregate principal amount of \$4.0 million (the “**Convertible Bullet Loan**”), (b) on the Effective Date, a loan in the aggregate principal amount of \$5.0 million (“**Tranche B**”), and (c) available until December 31, 2021, a loan in the aggregate principal amount of \$3.0 million (“**Tranche C**”, together with the Convertible Bullet Loan and Tranche B, the “**Loan**” or “**Loans**”). The Convertible Bullet Loan and Tranche B were funded on the Effective Date.

The Company intends to use the proceeds of the Loans to refinance the Company’s existing indebtedness in the amount of approximately \$8.2 million, and to enhance the Company’s product development and commercial growth plans, and for general corporate purposes.

The Convertible Bullet Loan requires forty-eight (48) monthly interest only payments commencing after the Effective Date and thereafter full payment of the then outstanding principal balance of the Bullet Loan on July 1, 2025. The Tranche B loan requires interest only monthly payments commencing on the Effective Date until September 30, 2022 and, thereafter, thirty-three (33) monthly payments of principal and interest accrued thereon until June 1, 2025. The Tranche C loan, to the extent drawn on or prior to December 31, 2021, requires monthly payments of interest only commencing on the date drawn until September 30, 2022 and, thereafter, thirty-three (33) monthly payments of principal and interest accrued thereon until June 1, 2025. Notwithstanding the foregoing, in the event the Borrower completes a capital raise of a minimum of \$20.0 million prior to September 30, 2022, the repayment terms of the Tranche B and Tranche C loans shall automatically be amended so that the interest only period will be extended to June 30, 2023, and, thereafter, the Borrower shall pay twenty-four (24) monthly payments of principal and interest accrued thereon until June 1, 2025.

Interest on the Convertible Bullet Loan accrues at 7.75% per annum. Interest on the Tranche B and Tranche C loans accrues at 9.5% per annum.

The Borrower may prepay all, but not less than all, of the outstanding principal balance of any of the Loans. In case of prepayment within 6 months of the Effective Date, the Borrower will pay a sum equal to (i) the principal balance then outstanding, plus (ii) an aggregate of all remaining interest payments discounted to present value at the then-applicable Wall Street Journal Prime Rate less 3%, with a floor of 0%. In case of prepayment within 7-24 months of the Effective Date, the Borrower will pay a sum equal to 102% of principal balance then outstanding. In case of prepayment within 25-36 months of the Effective Date, the Borrower will pay a sum equal to 101% of the principal balance then outstanding. If prepayment is made after 36 months of the Effective Date, the Borrower will pay a sum equal to the principal balance then outstanding. In connection with any prepayment, the Borrower will also pay the End of Loan Payment (as defined below) and any other unpaid fees or costs, if any.

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The Loans are subject to mandatory accelerated repayment provisions that require repayment of the outstanding principal amount of the Loan, and all accrued and unpaid interest thereon, upon the occurrence of an event of default, subject to certain limitations and cure rights. In addition, in the event of acceleration upon an event of default (a) the Borrower will be required to pay the aggregate of the monthly interest payments scheduled to be paid by the Borrower for the period from the date of acceleration to the expiry of the applicable Loan, in each case discounted from the applicable monthly repayment date to the date of prepayment at the rate of 2% per annum and (b) the other prepayment penalty obligations described above will not apply.

The Lender may elect to convert all or part of the Convertible Bullet Loan into shares of the Company's common stock, par value \$0.0001 per share (the **Common Stock**) at the Conversion Price (as defined below) at any time while the Convertible Bullet Loan remains outstanding. The **Conversion Price** is set at \$1.40, subject to certain customary adjustments for stock splits, combinations, stock dividends or similar events as specified in the Loan Agreement. Should the Lender elect to convert the Convertible Bullet Loan, the End of Loan Fee for the portion of loan converted would not be payable by the Borrower.

The Company may elect to convert all or part of the Convertible Bullet Loan into shares of Common Stock at the Conversion Price at any time while the Convertible Bullet Loan remains outstanding, if the average closing price per share of Common Stock for twenty (20) consecutive trading days, including the day of the actual conversion, is greater than 200% of the Conversion Price.

In connection with entering into the Loan Agreement, the Company will pay Lender a fee of up to \$50,000 for legal and other ancillary fees. Pursuant to the Loan Agreement, upon the execution of the agreement, the Company paid Lender (a) a transaction fee equal to \$150,000 and (b) an advance payment in the amount of \$171,406.21 which reflects the last month's payment of principal and interest for Tranche B. Additionally, Borrower will be required to pay Lender an end of loan payment equal to 1.75% of the amount of each tranche drawn down upon the expiration of each such tranche (each an **End of Loan Payment**). If the Lender elects to convert any part of the Convertible Bullet Loan, then the aforementioned End of Loan Payment shall not apply with respect to such converted part of the Convertible Bullet Loan.

Outstanding borrowings under the Loan Agreement are secured by a first priority security interest on substantially all of the personal property assets of the Borrower, including Borrower's material intellectual property and equity interests in its subsidiaries. In conjunction with the security interests granted under the Loan Agreement, the Borrower's obligations are further secured, pursuant to the terms of (A) a Security Agreement (the **Company Security Agreement**), between the Company and the Lender, (B) a Security Agreement, between the US Subsidiary and the Lender (the **US Subsidiary Security Agreement**), (C) a Debenture – Fixed Charge, between the IL Subsidiary and the Lender (the **IL Subsidiary Debenture – Fixed Charge**), (D) a Debenture – Floating Charge, between the IL Subsidiary and the Lender (the **IL Subsidiary Debenture – Floating Charge**), and (E) a US Intellectual Property Security Agreement, between the IL Subsidiary and the Lender (the **IL Subsidiary US IP Security Agreement**), together with the Company Security Agreement, the US Subsidiary Security Agreement, the IL Subsidiary Debenture – Fixed Charge, and the IL Subsidiary Debenture – Floating Charge, the **Initial Security Documents**), each dated as of the Effective Date.

The Loan Agreement contains customary representations and warranties, indemnification provisions in favor of Lender, events of default and affirmative and negative covenants, including, among others, covenants that limit or restrict the Company's ability to, among other things, incur additional indebtedness, merge or consolidate, make acquisitions, pay dividends or other distributions or repurchase equity, make investments, dispose of assets and enter into certain transactions with affiliates, in each case subject to certain exceptions. There are no liquidity or financial covenants. Borrower has also granted Lender certain information rights.

In connection with the Loan Agreement, the Company also issued to Lender a warrant (**Warrant**), dated July 16, 2021, to purchase up to 190,949 shares of the Company's common stock, at an exercise price of \$1.0474 per share, payable in cash or on a cashless basis according to the formula set forth in the Warrant. The exercise price of the Warrant and the number of shares issuable upon exercise of the Warrant are subject to adjustments for stock splits, combinations, stock dividends or similar events. The Warrant is exercisable until the date that is ten (10) years after the date of issuance. The Warrant was issued on substantially the same form as the Company's Form of June 2018 Consultant Warrant, filed as [Exhibit 4.1](#) of our Quarterly Report on Form 10-Q filed with the SEC on August 13, 2018, and incorporated herein by reference.

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The description of the material terms of the Loan Agreement and the Initial Security Documents are qualified in their entirety by reference to the complete text of the such agreements, which are filed as Exhibit 10.1, Exhibit 10.2, Exhibit 10.3, Exhibit 10.4, Exhibit 10.5 and Exhibit 10.6 to this Current Report on Form 8-K, and are incorporated herein by reference.

#### **Item 1.02 Termination of a Material Definitive Agreement.**

##### *Silicon Valley Bank Loan and Security Agreement*

On the Effective Date, the Company used a portion of the proceeds from the Convertible Bullet Loan and Tranche B to repay in full all amounts outstanding under, and discharge all obligations in respect of, the Loan and Security Agreement dated as of December 13, 2019, as amended (the **SVB Loan Agreement**), between the Borrower and Silicon Valley Bank. The payment amount of approximately \$8.2 million included a negotiated prepayment premium of \$220,000 under the terms of the payoff arrangement with Silicon Valley Bank. As a result, the SVB Loan Agreement, together with all documents and agreements executed in connection therewith, have terminated and all liens associated therewith have been released as of the Effective Date.

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

The information required by this Item 2.03 is set forth under Item 1.01 of this Current Report on Form 8-K, which is incorporated herein by reference.

#### **Item 3.02 Unregistered Sales of Equity Securities.**

The information required by this Item 3.02 with respect to the Convertible Bullet Loan and the Warrant is set forth under Item 1.01 of this Current Report on Form 8-K, which is incorporated herein by reference.

The Company will issue the Convertible Bullet Loan, the Warrant and the shares of Common Stock underlying the Convertible Bullet Loan and the Warrant to Lender in reliance on the exemption from registration provided for under Section 4(a)(2) of the Securities Act.

**Item 7.01 Regulation FD Disclosure.**

On July 21, 2021, the Company issued a press release announcing the Loan Agreement with Lender. A copy of the press release is furnished as Exhibit 99.1 to this Current Report on Form 8-K.

In accordance with General Instruction B.2 of Form 8-K, the information furnished under Item 7.01 of this Current Report on Form 8-K, including Exhibit 99.1, is deemed to be “furnished” and shall not be deemed “filed” for the purpose of Section 18 of the Securities Exchange Act of 1934, as amended (the “Exchange Act”), or otherwise subject to the liabilities of that section, nor shall such information and Exhibit be deemed incorporated by reference into any filing under the Securities Act or the Exchange Act.

**Item 9.01. Financial Statements and Exhibits.**

(d) The following exhibit is furnished with this report:

<u>Exhibit No.</u>	<u>Description</u>
4.1	<a href="#">Form of June 2018 Consultant Warrant, filed as Exhibit 4.1 of the Company’s Quarterly Report on Form 10-Q filed with the SEC on August 13, 2018</a>
10.1	<a href="#">Loan Agreement, dated as of July 16, 2021 between Kreos Capital, Motus GI Holdings, Inc., Motus GI, LLC and Motus GI Medical Technologies, LTD</a>
10.2	<a href="#">Security Agreement dated as of July 16, 2021 between Kreos Capital and Motus GI Holdings, Inc.</a>
10.3	<a href="#">Security Agreement dated as of July 16, 2021 between Kreos Capital and Motus GI, LLC</a>
10.4	<a href="#">Debenture – Fixed Charge dated as of July 16, 2021 between Kreos Capital and Motus GI Medical Technologies, LTD</a>
10.5	<a href="#">Debenture – Floating Charge dated as of July 16, 2021 between Kreos Capital and Motus GI Medical Technologies, LTD</a>
10.6	<a href="#">US Intellectual Property Security Agreement dated as of July 16, 2021 between Kreos Capital and Motus GI Medical Technologies, LTD</a>
99.1	<a href="#">Press release of Motus GI Holdings, Inc., dated July 21, 2021</a>

**SIGNATURES**

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

**MOTUS GI HOLDINGS, INC.**

Dated: July 21, 2021

By: /s/ Timothy P. Moran  
Name: Timothy P. Moran  
Title: Chief Executive Officer

**AGREEMENT FOR THE PROVISION OF A LOAN FACILITY  
OF UP TO US\$ 12,000,000**

**Dated July 16, 2021**

**Between**

**KREOS CAPITAL VI (EXPERT FUND) LP**, a limited partnership incorporated in Jersey whose registered office is at 47 Esplanade, St Helier, Jersey (the **Lender**”, which expression shall include its successors and assigns);

and

**MOTUS GI HOLDINGS, INC.** (the **Parent**”), a Delaware corporation, **MOTUS GI, LLC**, (the **US Subsidiary**”), a Delaware limited liability company, and **MOTUS GI MEDICAL TECHNOLOGIES LTD.**, (the **IL Subsidiary**”) a company registered in the State of Israel (The Parent, The US Subsidiary and the IL Subsidiary jointly, the **Borrower**”).

**WHEREAS:**

- The Borrower wishes to borrow up to the Total Loan Facility (as defined below) and the Lender wishes to make up to the Total Loan Facility available to the Borrower on the terms of this agreement (the **Loan Agreement**”); and
- The Borrower hereby confirms that on or about the date hereof it shall enter into the Initial Security Documents (as defined below) as security for monies borrowed by the Borrower hereunder under which it shall grant to the Lender, (A) a first priority security interest in and to that part of the assets of the Parent and of the US Subsidiary (the **US Security Interest**”), (B) a first priority fixed charge over the Equipment, the Intellectual Property and the account receivables of the IL Subsidiary (the **Fixed Charge**”), (C) a first priority floating charge over all the assets of the IL Subsidiary as of the date hereof or hereafter acquired (the **Floating Charge**”), and (D) a first priority security interest in and to the Intellectual Property of the IL Subsidiary (the **US IP Security Interest**”); all as security for monies borrowed by the Borrower hereunder.

**LOAN FACILITY TERMS:**

<b>Total Loan Facility</b>	<b>Up to an aggregate amount equal to US\$ 12,000,000 as follows:</b> <ul style="list-style-type: none"> <li>• An amount of US\$ 4,000,000 (“Amount A”);</li> <li>• An amount of US\$ 5,000,000 (“Amount B”); and</li> <li>• An amount of US\$ 3,000,000 (“Amount C”).</li> </ul>
<b>Closing Date</b>	<b>July 16, 2021</b>
<b>Total Loan Facility</b>	<b>Up to an aggregate amount equal to US\$ 12,000,000 as follows:</b> <ul style="list-style-type: none"> <li>• An amount of US\$ 4,000,000 (“Amount A”);</li> <li>• An amount of US\$ 5,000,000 (“Amount B”); and</li> <li>• An amount of US\$ 3,000,000 (“Amount C”).</li> </ul>
<b>Closing Date</b>	<b>July 16, 2021</b>
<b>Drawdown Period</b>	<b>The Total Loan Facility shall be available for drawdown as follows:</b> <ul style="list-style-type: none"> <li>• Amount A must be drawn in full on the Closing Date to refinance the existing SVB Debt Facility (as defined below) and for general working capital purposes;</li> <li>• Amount B must be drawn in full on the Closing Date to refinance the existing SVB Debt Facility and for general working capital purposes; and</li> <li>• Amount C shall be available for Drawdown in full (and not in part), from the Closing Date until the Expiry Date.</li> </ul>

<b>Expiry Date</b>	<b>December 31, 2021</b>
<b>Advance Payment</b>	<b>In relation to the Term Loan (as defined below), the last month’s payment amount for each Tranche as defined below (comprising principal and interest), as set out in the Repayment Schedule.</b>  <b>With respect to Amount B the Advance Payment of US\$ 171,406.21 shall be due and payable on the Closing Date.</b>
<b>Repayment Term</b>	<b>The Repayment Term shall be as follows:</b> <ul style="list-style-type: none"> <li>• With respect to Amount A (“Bullet Loan”) and subject to the Bullet Loan Conversion (as defined below), forty-eight (48) monthly payments of interest only commencing after the Closing Date and thereafter full payment of the then outstanding principal balance of the Bullet Loan;</li> <li>• With respect to Amount B (“Amount B Loan”) and subject to a Capital Raise (as defined below), monthly payments of interest only commencing on the Closing Date until September 30, 2022 and, thereafter, thirty-three (33) monthly payments of principal and interest accrued thereon, all as set forth in Clause 5.2 below;</li> </ul>

	<ul style="list-style-type: none"> <li>• <b>With respect to Amount C (if applicable) (“Amount C Loan” and together with Amount B Loan, collectively, the “Term Loan”;</b> <b>provided, however, if Amount C Loan is not advanced all references contained in this Loan Agreement to ‘Term Loan’ shall mean the Amount B Loan) and subject to a Capital Raise, monthly payments of interest only commencing on the Drawdown Date until September 30, 2022 and, thereafter, thirty-three (33) monthly payments of principal and interest accrued thereon, all as set forth in Clause 5.2 below;</b></li> </ul> <p><b>Notwithstanding the above, with respect to the Term Loan, if a Capital Raise (as defined below) occurs prior to September 30, 2022, the Repayment Term of the Term Loan shall automatically be amended so that the interest only period will be automatically extended to June 30, 2023, and, thereafter, the Borrower shall pay twenty-four (24) monthly payments of principal and interest accrued thereon, all as set forth in Clause 5.2 below.</b></p>
<b>Transaction Fee</b>	<b>A one-time payment of one hundred fifty thousand US Dollars (US\$ 150,000), payable upon execution of this Loan Agreement and the funding by Lender of the Bullet Loan and the Amount B Loan.</b>
<b>End of Loan Payment</b>	<p><b>Upon full payment of a Tranche, 1.75% of the amount of such Tranche, payable together with the final payment of such Tranche.</b></p> <p><b>If the Lender elects to convert any part of the Bullet Loan as provided for in Clause 5.5, then the aforementioned End of Loan Payment shall not apply with respect to such converted part of the Bullet Loan.</b></p>

## 1 DEFINITIONS

In this Loan Agreement, including the recitals set out above, unless otherwise defined:

- 1.1 “**Accounts**” means the most updated audited annual consolidated profit and loss account and balance sheet of the Borrower;
- 1.2 “**Advance Payment**” has the meaning given in Clause 5.1;
- 1.3 “**Affiliate**” means, in relation to any person, a subsidiary of that person or a holding company of that person or any other subsidiary of that holding company, provided that a company shall be regarded as a subsidiary of a person if more than 50% of the outstanding share capital of such company is held by such person and a company shall be regarded as a holding company if it holds more than 50% of the outstanding share capital of another company;
- 1.4 “**Applicable Interest Rate**” means the Bullet Loan Applicable Interest Rate or the Term Loan Applicable Interest Rate, as applicable;
- 1.5 “**Assignee**” has the meaning given in Clause 15.4;
- 1.6 “**Business Day**” means any day on which commercial banks are generally open for business in London and New York, New York other than a Saturday or Sunday or a legal holiday;
- 1.7 “**Change of Control**” has the meaning given in Clause 9.6.
- 1.8 “**Capital Raise**” means the Borrower raising capital of minimum US\$ 20,000,000 (other than indebtedness for borrowed money).
- 1.9 “**Charged Assets**” means the assets and undertaking charged or to be charged to the Lender from time to time pursuant to the Security Documents;
- 1.10 “**Closing Date**” means the Closing Date set forth above under the Loan Facility Terms.
- 1.11 “**Companies Registrar**” means the Registrar of Companies in Israel;

- 1.12 “**Contractual Currency**” has the meaning given to it in Clause 5.3;
- 1.13 “**Bullet Loan**” means the Bullet Loan set forth above under the Loan Facility Terms.
- 1.14 “**Bullet Loan Applicable Interest Rate**” means 7.75% per annum;
- 1.15 “**Bullet Loan Conversion**” has the meaning given to it in Clause 5.5;
- 1.16 “**Drawdown**” means the drawdown of a Tranche under the Loan Facility;
- 1.17 “**Drawdown Date**” unless otherwise provided herein, (i) with respect to the Bullet Loan and the Amount B Loan, the Drawdown Date means the Closing Date, and (ii) with respect to the Amount C Loan, the Drawdown Date means the date on which Amount C is actually advanced to the Borrower by the Lender;
- 1.18 “**Drawdown Notice**” means a drawdown notice served in accordance with Clause 3.2 in the form attached hereto as Schedule A (as may be amended with the prior written consent of the Borrower and Lender);
- 1.19 “**End of Loan Payment**” means the End of Loan Payment set forth above under the Loan Facility Terms;

- 1.20 “**Equipment**” means all the equipment of the Borrower as listed in Schedule B;
- 1.21 “**Event of Default**” means any of the events or circumstances described in Clause 9 beyond any applicable notice and cure periods;
- 1.22 “**Expiry Date**” means the date set forth above under the heading Loan Facility Terms;
- 1.23 “**Financial Indebtedness**” means (i) monies borrowed, (ii) finance or capital leases, (iii) receivables sold or discounted (other than on a non-recourse basis), (iv) other transactions having the commercial effect of borrowing, (v) the market to market value of derivative transactions entered into in connection with protection against or benefit from fluctuation in any rate or price, (vi) counter-indemnity obligations in respect of guarantees or other instruments issued by a bank or financial institution, (vii) any other transaction or arrangement having the commercial effect of a borrowing, and (viii) liabilities under guarantees or indemnities for any of the obligations referred to in items (i) to (vii);
- 1.24 “**Group**” means (i) the Borrower; (ii) any holding company of the Borrower; and (iv) any subsidiaries of such holding companies from time to time, and (iv) any subsidiaries of the Borrower (as such terms are defined in Clause 1.3) and “**Group Company**” means any member of the Group;
- 1.25 “**IIA**” means the Israeli National Authority for Technological Innovation.
- 1.26 “**Immaterial Intellectual Property**” means Intellectual Property that is not used or useful in, or material to, the business of any Borrower.
- 1.27 “**Intellectual Property**” means key material copyrights and related rights (including, without limitation, rights in computer software), patents, supplementary protection certificates, utility models, trademarks, trade names, service marks, domain name registrations, registered and unregistered rights in designs, database rights, semiconductor topography rights, plant variety rights, rights protectable by the law of passing off or by laws against unfair competition, rights in undisclosed or confidential information (such as know-how, trade secrets and inventions (whether patentable or not)), and other similar intellectual property rights (whether registered or not) and applications for such rights as may exist anywhere in the world, but expressly excluding Immaterial Intellectual Property;

- 1.28 “**Initial Security Documents**” means the documents listed in Schedule D and dated on or about the date of this Loan Agreement;
- 1.29 “**Loan**” means the loan to be made in accordance with the terms of this Loan Agreement;
- 1.30 “**Loan Facility**” means the loan facility set out in this Loan Agreement;
- 1.31 “**Loan Term**” means with respect to each Tranche, the period commencing on the Drawdown Date and expiring at the end of the Repayment Term of such Tranche (as set forth above under the heading Loan Facility Terms);
- 1.32 “**Material Adverse Change**” is any material change in the business, operations, assets or condition (financial or otherwise) of the Borrower that has or would materially adversely affect the Borrower’s ability to perform any of its obligations under this Loan Agreement and the Security Documents.
- 1.33 “**Monthly Repayment Date**” means the first Business Day of a calendar month, and “**First Monthly Repayment Date**” shall mean the first Monthly Repayment Date being either (i) the Drawdown Date (where the Drawdown Date is the first Business Day of a calendar month); or (ii) the first Business Day of the next calendar month following the Drawdown Date (where the Drawdown Date is not the first Business Day of a calendar month).
- 1.34 “**Permitted Indebtedness**” means the indebtedness detailed in Schedule 1.34 attached hereto.
- 1.35 “**Permitted Investments**” means the investments detailed in Schedule 1.37 attached hereto;
- 1.36 “**Permitted Security Interest**” means the Security Interest detailed in Schedule 1.36 attached hereto;
- 1.37 “**Permitted Transfers**” means the transfers/dispositions detailed in Schedule 1.37 attached hereto;
- 1.38 “**Related Fund**” in relation to a fund (the “**First Fund**”), means a fund which is managed or advised by the same investment manager or investment adviser as the First Fund or, if it is managed by a different investment manager or investment adviser, a fund whose investment manager or investment adviser is an Affiliate of the investment manager or investment adviser of the First Fund;
- 1.39 “**Repayment Schedule**” has the meaning given in Clause 5.2.2;
- 1.40 “**Repayment Term**” means the Repayment Term set forth above under the Loan Facility Terms.
- 1.41 “**Security Documents**” means the Initial Security Documents, and any other applicable document evidencing the security over assets of the Borrower (or any Group Company), or (for the avoidance of doubt) any document creating a Security Interest in favor of the Lender pursuant to the terms of this Loan Agreement;
- 1.42 “**Security Interest**” means any mortgage, charge (whether fixed or floating, legal or equitable), pledge, lien, hypothecation, assignment by way of security or otherwise, trust arrangement, title retention or encumbrance or enforceable right of a third party, any other type of Security Interest or preferential arrangement having a similar effect to any of the foregoing or in the nature of security of any kind whatsoever and in any jurisdiction;

- 1.43 “**Security Period**” means the period commencing on the Closing Date and ending on the date on which all amounts due and payable by the Borrower under this Loan Agreement and the Security Documents have been indefeasibly repaid in full, including the End of Loan Payment;
- 1.44 “**Subsidiaries**” means the US Subsidiary and the IL Subsidiary;
- 1.45 “**SVB**” means Silicon Valley Bank;
- 1.46 “**SVB Debt Facility**” means that certain Loan and Security Agreement entered into between SVB and Parent dated December 13, 2019, as amended, pursuant to which a credit facility was extended to Parent by SVB in accordance with its terms;

- 1.47 “**Taxes**” means all present and future income, value added and other taxes, levies, imposts, deductions, charges and withholdings in the nature of taxes (other than taxes on the profits and overall income of the Lender) whatsoever together with interest thereon and penalties with respect thereto made on or in respect thereof;
- 1.48 “**Term Loan**” means the Term Loan set forth above under the Loan Facility Terms.
- 1.49 “**Term Loan Applicable Interest Rate**” means 9.5% per annum;
- 1.50 “**Total Loan Facility**” means the amount set forth above under the heading Loan Facility Terms;
- 1.51 “**Tranche**” an amount drawn down pursuant to this Loan Agreement;
- 1.52 “**Transaction Fee**” has the meaning given in Clause 10.1 and is the amount set forth above in the Loan Facility Terms;
- 1.53 “**Transfers**” has the meaning given in Clause 8.1.3;
- 1.54 “**UCC**” means the Uniform Commercial Code;
- 1.55 “**Warrant Instrument**” means a warrant instrument in the form attached hereto as Schedule 1.55 to be issued by the Parent to the Lender on the date of this Loan Agreement.

## 2 INTERPRETATION

In this Loan Agreement (unless the context requires otherwise) any reference to:

- 2.1 any law or legislative provision includes a reference to any subordinate legislation made under that law or legislative provision before the date of this Loan Agreement, to any modification, re-enactment or extension of that law or legislative provision made before that date and to any former law or legislative provision which it consolidated or re-enacted before that date;
- 2.2 any gender includes a reference to other genders and the singular includes a reference to the plural and vice versa;
- 2.3 a Clause or Schedule is to a Clause or Schedule (as the case may be) of or to this Loan Agreement;
- 2.4 a “**person**” shall be construed as including a reference to an individual, firm, company, corporation, unincorporated body of persons or any country (or state thereof or any agency thereof);

- 2.5 an “**amendment**” includes a supplement, novation or re-enactment executed by Lender and Borrower in writing and “amended” is to be construed accordingly;
- 2.6 “**assets**” includes present and future properties, undertakings, revenues, rights and benefits of every description;
- 2.7 an “**authorization**” includes an authorization, consent, approval, resolution, license, exemption, filing, registration and notarization;
- 2.8 a “**regulation**” includes any regulation, rule, official directive, request or guideline (whether or not having the force of law) of any governmental, inter-governmental or supranational body, agency, department or regulatory, self-regulatory or other authority or organization;
- 2.9 “**other**” and “**otherwise**” are not to be construed ejusdem generis with any foregoing words where a wider construction is possible and “including” and “in particular” are to be construed as being by way of illustration or emphasis only and are not to be construed as, nor shall they take effect as, limiting the generality of any foregoing words;
- 2.10 a document being in “**agreed form**” is a document which is previously agreed in writing by or on behalf of the Lender, if not so agreed, is in the form reasonably specified by the Lender;
- 2.11 any reference to an Event of Default being continuing is a reference to an Event of Default that has not been remedied in accordance with the terms of this Loan Agreement; and
- 2.12 the headings in this Loan Agreement are inserted for convenience only and do not form part of this Loan Agreement and do not affect its interpretation.

## 3 LOAN FACILITY

### 3.1 Lender’s Commitment

- 3.1.1 Subject to Clause 3.5 below, the Lender shall and agrees hereby to make available to the Borrower a loan facility of up to the Total Loan Facility under the terms of this Loan Agreement, to be drawn down as set out in the Loan Facility Terms and in accordance with Clause 3.2 before the Expiry Date of the Loan Facility.
- 3.1.2 The Lender shall not be under any commitment to advance any Tranche or any part thereof after the Expiry Date or upon the earlier termination of the Loan Facility in accordance with Clause 3.4.
- 3.1.3 The unutilized portion (if any) of the Loan Facility shall be cancelled after the Expiry Date, whereupon the Total Loan Facility shall be reduced accordingly.
- 3.1.4 In granting the Loan Facility the Lender is relying on the representations and warranties contained in Clause 7.
- 3.1.5 Each Drawdown made under the Loan Facility shall be secured by the Security Documents.

### 3.2 Date of Advance(s) of the Loan

3.2.1 Subject to Clause 3.1.1, (and subject to the satisfaction of the relevant conditions set forth in Clause 3.5), (i) the Bullet Loan and the Amount B Loan, shall be advanced and made available to the Borrower on the Closing Date (provided Borrower executes and delivers to Lender a Drawdown Notice for the Bullet Loan and the Amount B Loan on the Closing Date), and (ii) the Amount C Loan shall be advanced and made available to the Borrower within ten (10) Business Days from receipt by the Lender of an executed Drawdown Notice. Each Drawdown Notice shall constitute a separate and independent obligation of the Borrower incorporating the terms of this Loan Agreement. No more than one (1) Drawdown Notice may be served in respect of each Tranche.

### 3.3 Method of Disbursement

The payment by the Lender to the account specified in the Drawdown Notice shall constitute the making of the Loan (or the relevant part thereof) and the Borrower shall thereupon become indebted, as principal and direct obligor, to the Lender in an amount equal to the Loan (or the relevant part thereof). For avoidance of doubt, following the payment by the Lender to the account specified in the Drawdown Notice - notwithstanding the actual owner of such account - the Borrower shall thereupon become indebted, as principal and direct obligor to the Lender, for the entire amount of the Loan transferred.

### 3.4 Termination or Modification of Funding Commitment

The Lender's commitment to advance each Tranche of the Loan Facility in accordance with the terms of this Loan Agreement is limited in aggregate to the amount of the Total Loan Facility; provided, however, that the Lender, acting in its sole discretion, may terminate or modify its funding commitment pursuant to this Loan Agreement at any time if Lender determines that:

- 3.4.1 there exists a Material Adverse Change;
- 3.4.2 there is any material accelerated depreciation in the value of the Charged Assets;
- 3.4.3 there is any material deviation by the Borrower from its current business presented to the Lender prior to the date of this Loan Agreement;
- 3.4.4 on either the date of the Drawdown Notice or at the Drawdown Date:
  - (i) an Event of Default has occurred and is continuing or would result from the borrowing to be made pursuant to the Drawdown Notice; or
  - (ii) the Borrower's representations and warranties in Clause 7.1 or those which are set out in any Security Document would not be true in all material respects if repeated on each of those dates with reference to the circumstances then existing taking into account the time that has lapsed since the representation and warranties were made.

### 3.5 Conditions Precedent requirements relative to the Advance of the Loan

- 3.5.1 The Lender's obligation to provide the Loan Facility (or any part thereof) is subject to the prior satisfaction by each of the Borrower of the following conditions:
  - (i) the provision to the Lender of a copy of the resolutions of each of the board of directors, members, or managers, as applicable, of the Borrower and, and to the extent required, their stockholders/shareholders, authorizing the transactions contemplated by this Loan Agreement and the execution and delivery to the Lender of this Loan Agreement and associated documents, including but not limited to, the Security Documents;

- (ii) the provision to the Lender of copies of the certificate of incorporation, by-laws and/or the articles of association of each of the Borrower, as applicable;
- (iii) the provision to the Lender of all necessary consents (to the extent required) of stockholders/shareholders, warrant holders, and other third parties (including landlords) with respect to the entering into of this Loan Agreement and the execution of associated documents, including but not limited to, any Security Documents, have been obtained;
- (iv) a certificate of a director or officer of each Borrower confirming that the borrowing of the Loan Facility in full would not cause any borrowing limit binding on the Borrower to be exceeded;
- (v) the parties having executed and delivered to the Lender the originals of the Security Documents, the Warrant Instrument and this Loan Agreement;
- (vi) submission of the Security Documents to the Companies Registrar or any equivalent in any relevant foreign jurisdiction and registration of the Security Interest therein, and the approval thereof, if any, subject to compliance with all applicable laws in respect of such registration within the time frame provided for under applicable law;
- (vii) there has been no accelerated depreciation in the value of the Charged Assets;
- (viii) delivery by the Borrower to the Lender of such reasonable documentation in a form and substance reasonably satisfactory to the Lender as the Lender may reasonable request with respect to any invoices, purchase orders and the like relating to future Charged Assets purchases to be subject to this Loan Agreement and/or any Security Documents;
- (ix) the Borrower's compliance with Clauses 10.1, 10.2 and evidence of the Borrower's compliance with Clause 12.2.3 below;
- (x) the provision to the Lender of a copy of the financial model and forecasts for the Group as requested by the Lender;
- (xi) intentionally omitted;
- (xii) the provision to the Lender of copies of any policies of insurance maintained by each of the Borrower or any other Group Company in respect of the Charged Assets including such insurances as are required pursuant to and complying in all respects with the requirements of Clause 12 shall be provided to the Lender;

- (xiii) any such other reasonable documentation in form and substance reasonably satisfactory to the Lender as the Lender may reasonably request;
- (xiv) subject to the Permitted Security Interests, the Charged Assets being free and clear of all Security Interests of third parties whatsoever; and
- (xv) the Borrower has no material outstanding debts to any tax authorities which are overdue by more than 45-days or for such longer period provided Borrower is contesting same in good faith and by appropriate proceedings;
- (xvi) intentionally omitted;
- (xvii) Repayment of SVB Debt Facility and release of securities granted to SVB over the Borrower's assets in connection with same.

### 3.6 Waiver Possibility

If the Lender advances all or any part of the Loan to the Borrower prior to the satisfaction of all or any of the conditions referred to in Clause 3.5 (which the Lender has no obligation to do) the Borrower shall satisfy or procure the satisfaction of such condition or conditions which have not been satisfied within twenty (20) Business Days of the Drawdown Date, as applicable (or within such longer period as the Lender may agree or specify in writing), provided, that the Lender at its sole discretion may waive the satisfaction of any condition.

### 3.7 Equipment

The existing Equipment of the Borrower as listed in Schedule B (as may be amended from time to time with the consent of the Borrower and the Lender) shall be part of the Security Interest of the Lender and be included in the Fixed Charge and/or the US Security Interest, as applicable. Future purchases of Equipment purchased until (and including) the last day of the Security Period ("New Equipment") shall, in addition be made subject to the provisions of this Loan Agreement and form part of the Security Interest and shall be charged by way of either listing such New Equipment to the relevant schedule in the Debenture - Fixed Charge and/or US Security Interest, as applicable, to be amended accordingly, or, at the Lender's election, as a separate supplemental Fixed Charge (which shall be part of the Security Documents hereunder), and submitted to and registered with the Companies Registrar and/or any equivalent in a foreign jurisdiction, as applicable, (at the Lender's request, Schedule B hereto shall be replaced or supplemented from time to time to reflect any addition of such New Equipment as aforesaid); it being agreed that, at any time until the end of the Security Period, the Borrower shall be obliged to register any additional Fixed Charge and/or US Security Interest in favor of the Lender only at such time as the aggregate value of the New Equipment exceeds US\$300,000. For the avoidance of doubt, in addition, the Equipment is subject to the Floating Charge and any New Equipment shall become subject to the Floating Charge as soon as an interest therein is acquired by Borrower (without any further action being required to effect the same).

The accounts receivables of the IL Subsidiary (excluding all intercompany accounts receivables) as of the creation of the Fixed Charge are listed in Schedule C1 and such accounts receivables (excluding all intercompany accounts receivables) shall be part of the Security Interest of the Lender and be included in the Fixed Charge. The list of accounts receivables shall be updated, within thirty (30) days following the last Business Day of each calendar year in which there is an outstanding account receivable (excluding all intercompany accounts receivables) of IL Subsidiary in excess of US\$300,000 per customer until (and including) the last day of the Security Period ("New AR"). Each New AR shall, in addition, be made subject to the provisions of this Loan Agreement and form part of the Security Interest and shall be charged by way of either listing such New AR to the relevant schedule in the Fixed Charge, to be amended accordingly, or, at the Lender's election, as a separate supplemental Fixed Charge (which shall be part of the Security Documents hereunder), and, at Lender's request, submitted to and registered with the Companies Registrar. For the avoidance of doubt, in addition, the accounts receivables are subject to the Floating Charge and any New AR shall become subject to the Floating Charge as soon as an interest therein is acquired by IL Subsidiary (without any further action being required to effect the same).

The IL Subsidiary's list of active customers is listed in Schedule C2 (as may be amended from time with the consent of the Borrower and the Lender) shall be part of the Security Interest of the Lender and be included in the Fixed Charge. The list of customers set forth in Schedule C2 shall be updated with the addition of new customers which have placed orders in excess of US\$300,000 ("New Customers"), so that the right to receive payments from such New Customers shall also be made subject to the Fixed Charge subject to Permitted Security Interests, by way of either listing such New Customers to the relevant schedule in the Fixed Charge, to be amended accordingly, or, as a separate supplemental Fixed Charge (which shall be part of the Security Documents hereunder), and submitted to and registered with the Companies Registrar; it being agreed that such update of Schedule C2 and the registration thereof shall be carried out within thirty (30) days following the last Business Day of each calendar year throughout the Security Period.

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For the avoidance of doubt, any Company's right to receive payment from its customers shall, subject to the Permitted Security Interests, be subject to the Floating Charge and any right to receive payment from New Customers shall become subject to the Floating Charge as soon as an interest therein is acquired by IL Subsidiary (without any further action being required to effect the same).

### 3.8 Intellectual Property

The registered Intellectual Property of the Borrower as of the date hereof is listed in Schedule E (as may be amended from time to time with the consent of the Borrower and the Lender) and is covered by the Fixed Charge.

Future applications for registration of Intellectual Property of the Borrower shall in addition, be made subject to the provisions of this Loan Agreement and form part of the Security Interest of the Lender and be charged by way of either listing such new Intellectual Property on the relevant schedule in the Fixed Charge and/or US Security Interest, as applicable, to be amended accordingly at the Lender's election, not to exceed once annually, as a separate supplemental Fixed Charge and/or US Security Interest (and, at the Lender's request, Schedule E hereto shall be replaced or supplemented from time to time, to reflect any addition of such new Intellectual Property as aforesaid), and, in either case, submitted to and registered with the Companies Registrar and/or any equivalent in a foreign jurisdiction, as applicable, and with respect to applications for registration of Intellectual Property submitted to the Companies Registrar or any equivalent in a foreign jurisdiction, until (and including) the last day of the Security Period ("New Registered Intellectual Property") shall, in addition, be submitted to and registered with the Israeli Patent Office and/or the United States Patent and Trademark Office and/or Copyright Office, as applicable; it being agreed that, at any time until the end of the Security Period, the Borrower shall be obliged to create and register any such additional Fixed Charge in favor of the Lender, as follows:

- (i) with respect to New Registered Intellectual Property, if any, within thirty (30) days following the last Business Day of each calendar year;

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- (ii) with respect to new unregistered Intellectual Property, if any, within thirty (30) days following the last Business Day of each calendar year; and
- (iii) with respect to any future applications for registration of Intellectual Property submitted by the Borrower in countries other than Israel and the United States, the Borrower shall be obliged to notify the Lender within thirty (30) days of the last Business Day of each calendar year of the existence of any such applications for registration, and within thirty (30) days of Lender's request, not to exceed once annually, the Borrower will be obliged to create and register an additional Fixed Charge (as aforesaid) in favor of the Lender.

For the avoidance of doubt, in addition, the Intellectual Property of the Borrower is subject to the Floating Charge and any New Intellectual Property of the Borrower shall become subject to the Floating Charge as soon as an interest therein is acquired by Borrower (without any further action being required to effect the same).

### 3.9 Charged Assets

- 3.9.1 Unless the Lender shall otherwise agree in writing, the Borrower shall use the Loan mainly to refinance the SVB Debt and for general working capital purposes. The Lender shall not be under any obligation to concern itself with the application of the Loan.
- 3.9.2 The Charged Assets charged to the Lender pursuant to the Security Documents shall form security for the monies borrowed by the Borrower.

## 4 TERM

- 4.1 This Loan Agreement is effective upon execution thereof by the Lender and each of the Borrower and shall continue until the date upon which the Borrower shall have indefeasibly paid in full all of its obligations hereunder.

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- 4.2 If the conditions set out in Clause 3.5 have not been satisfied within forty-five (45) days of date of this Loan Agreement (except to the extent waived in writing by the Lender), the Lender shall in its sole but reasonable discretion have the option to either terminate this Loan Agreement or extend the period in which such conditions must be satisfied.

## 5 REPAYMENT AND PREPAYMENT

### 5.1 Advance Payment

On the Closing Date with respect to the Amount B Loan and on the Drawdown Date with respect to the Tranche C Loan the Borrower shall pay to the Lender (by way of deduction by Lender from the amount of the Tranche actually then advanced to the Borrower) the advance payment specified above in the Loan Facility Terms with respect to the applicable Tranche (the "**Advance Payment**") which shall be held by the Lender and applied in or towards payment of the last payment in respect of that particular Tranche.

### 5.2 Repayments

- 5.2.1 The Borrower shall pay all unpaid principal and accrued interest in respect of each Tranche as follows:

With respect to the Bullet Loan:

- (i) Subject to the Bullet Loan Conversion, the Borrower shall make forty-eight (48) monthly interest only payments at the Bullet Loan Applicable Interest Rate commencing from the Closing Date, following which the Borrower shall repay in full the then outstanding principal balance of the Bullet Loan.

With respect to any Tranche out of the Term Loan:

- (i) the Borrower shall pay monthly interest only payments on the principal amount drawn down at the Term Loan Applicable Interest Rate until September 30, 2022 (the "**Term Loan Interest Only Period**").
- (ii) thereafter, the Borrower shall pay, in respect of each Tranche, principal and interest accrued thereon in thirty three (33) equal monthly payments, each such payment shall be in an amount equal to 3.4281% of the amount of such Tranche (each a "**Monthly Repayment**");
- (iii) Notwithstanding the aforementioned, if a Capital Raise occurs prior to September 30, 2022, then the Term Loan Interest Only Period will be automatically extended until June 30, 2023 and the Monthly Repayments thereafter will be reduced to twenty-four (24) equal monthly payments of principal and interest accrued thereon, each such payment shall be in an amount equal to 4.5554% of the amount of such Tranche.

- 5.2.2 Each such monthly payment shall be paid to the Lender in advance on the first Business Day of each calendar month, commencing on (and including) the Drawdown Date of such Tranche, all as specified in a fully-amortizing repayment schedule issued by the Lender prior to the Drawdown Date (the "**Repayment Schedule**").

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Subject to Clause 5.2.2.4, each payment received by the Lender in respect of any Tranche shall be applied as follows:

- 5.2.2.1 firstly, to discharge all outstanding fees, reasonable out-of-pocket costs and expenses of or due to the Lender pursuant to this Loan Agreement;
- 5.2.2.2 secondly, to discharge all accrued interest in respect of such Tranche; and
- 5.2.2.3 thirdly, to reduce the outstanding principal balance of such Tranche.
- 5.2.2.4 For the avoidance of doubt following the occurrence and continuance of an Event of Default beyond any applicable notice and cure periods, the Lender may in its discretion apply any payment received or recovered from the Borrower to discharge any unpaid amount owed to it by the Borrower.
- 5.2.3 For the avoidance of doubt, it is hereby clarified that each of the Parent and the Subsidiaries, jointly and severally, shall be liable for the repayment of the Loan as detailed above, notwithstanding which of the said entities issued the Drawdown Notice or actually received the funds with respect to the Loan.

5.2.4 Any amount repaid or prepaid may not be redrawn.

5.2.5 If the Drawdown Date is not a Monthly Repayment Date, the Borrower shall pay to the Lender on the Drawdown Date (by way of deduction by the Lender of the amount of the Tranche actually advanced to the Borrower) the Interim Repayment which shall discharge interest accrued on the Tranche for the period from the Drawdown Date to the First Monthly Repayment Date. For the purpose of this Clause 5.2.5 "Interim Repayment" shall mean an amount equal to the Monthly Repayment amount as defined in Clause 5.2.1(ii) multiplied by a fraction of which numerator shall be the number of days from the relevant Drawdown Date to the First Monthly Repayment Date of such Tranche and the denominator of which shall be the number of calendar days in the month of the Drawdown Date. For the avoidance of doubt, the Interim Repayment shall not be applied towards repayment of the principal amount of the Tranche.

### 5.3 Currency of Payments

Repayment of the Loan and payment of all other amounts owed to the Lender will be paid in US Dollar (\$) (the "Contractual Currency").

### 5.4 Prepayments

The Borrower shall be entitled to prepay a Tranche out of the Term Loan in whole but not in part, subject to the following conditions:

5.4.1 The Borrower shall submit to the Lender an irrevocable written notice for prepayment of the applicable Tranche, at least ten (10) days in advance ("Prepayment Notice"), indicating the amount to be prepaid (the "Prepayment Sum") and the date of prepayment, provided that such prepayment shall be made on the last day of a calendar month;

5.4.2 In the event that the Borrower prepays any Tranche of the Term Loan in accordance with this Clause 5.4, the Prepayment Sum shall be as follows:

(i) in case of prepayment within six (6) months from the Closing Date, an amount equal to the outstanding principal of the Tranche to be prepaid, plus all future interest payments discounted back at the then-applicable Wall Street Journal Prime Rate less 3%, with a floor of 0%;

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(ii) in case of prepayment within seven (7) to twenty-four (24) months from the Closing Date, an amount equal to the 102% of the then outstanding principal of the Tranche to be prepaid;

(iii) in case of prepayment within twenty-five (25) to thirty-six (36) months from the Closing Date, an amount equal to the 101% of the then outstanding principal of the Tranche to be prepaid;

(iv) in case of prepayment after thirty-six (36) months from the Closing Date, an amount equal to the 100% of the outstanding principal of the Tranche to be prepaid;

For the avoidance of doubt, assuming that the Amount C Loan is drawn down, the prepayment timeframes and percentages indicated above are applicable to each Tranche of the Term Loan as of the Closing Date notwithstanding the Drawdown Date of the Amount C Loan.

5.4.3 The Borrower shall be entitled to prepay the Bullet Loan on the same terms as the Term Loan, subject to the Lender's right to trigger the Bullet Loan Conversion. Following submission of the Prepayment Notice, the Lender shall have ten (10) days to elect whether it wishes to convert the outstanding amount of the Bullet Loan. For the avoidance of doubt, the Borrower shall not be entitled to prepay the Bullet Loan without the Lender's prior written consent in the event that a Change of Control in the Borrower is under process or is being negotiated. For the purpose of this Clause 5.4.3, "Change of Control" shall include a VC or PE Change of Control (as defined below).

5.4.4 In the event of any prepayment, Borrower shall also pay the Lender the following amounts:

5.4.4.1 all unpaid fees, reasonable out-of-pocket costs and expenses;

5.4.4.2 the End of Loan Payment; provided, however, that if Lender elects to convert the Bullet Loan as provided in Section 5.5, the Borrower shall not be required to pay Lender the End of Payment Loan fee attributable to all or the portion of the converted Bullet Loan; and

5.4.4.3 all other sums due and payable by the Borrower to the Lender under this Loan Agreement.

### 5.5 Conversion of Bullet Loan

The Lender may elect at any time, and from time to time, until the full indefeasible repayment and/or conversion thereof, to convert all or part of the then outstanding part of Bullet Loan in accordance with the provisions of Schedule 5.5 (the "Bullet Loan Conversion").

## 6 INTEREST

6.1 Interest on the principal amount of each Tranche shall accrue from day to day until indefeasible repayment in full of the applicable Tranche at the Bullet Loan Interest Rate with respect to the Bullet Loan and at the Term Loan Interest Rate with respect to the Term Loan, and compounded on a monthly basis as provided in Section 5.2.2, from the relevant Drawdown Date until the repayment in full of such Tranche. Interest on each Tranche and each part thereof shall be calculated and paid in the Contractual Currency.

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6.2 Time of payment of any sum due from the Borrower is of the essence under this Loan Agreement. If the Borrower fails to pay any sum to the Lender on its due date for payment, the Borrower shall pay to the Lender forthwith on demand interest on such sum (compounded on a monthly basis) from the original due date to the date of actual payment (as well after as before judgment) at a rate equal to the Applicable Interest Rate plus 5% per annum.

6.3 To the extent the IL Subsidiary is making the payments due and payable to Lender under this Loan Agreement, unless otherwise instructed in writing by the Lender, immediately upon each due date for effecting any interest payment under or pursuant to this Loan Agreement and the Security Documents to which the Borrower is or is to be party, or upon actually paying any interest in advance of the due date for any reason, the Borrower shall report such payment to the relevant Israeli tax authorities, on behalf of the Lender, pay in full the value added tax liability arising in accordance with Section 6D of the Israeli Value Added Tax Regulations 5736-1976 and the Israeli Value Added Tax Law 5735-1975, and shall provide the Lender with documentation evidencing such payment, provided, however, that commencing upon Lender's request and continuing afterward until otherwise notified by Lender, the Borrower shall pay in full any applicable value added tax directly to Lender (or such agent of the Lender as the Lender may direct in writing) against delivery of an invoice.

## 7 REPRESENTATIONS AND WARRANTIES

7.1 The Borrower warrants and represents the following as of the date hereof:

7.1.1 The Parent is a public company duly organized and existing under the laws of the State of Delaware; the US Subsidiary is a limited liability company duly organized and validly existing under the laws of the State of Delaware; the IL Subsidiary is a corporation duly organized and validly existing under the laws of the State of Israel.

7.1.2 Each of the Parent and the Subsidiary has the corporate capacity, and has taken all corporate action and obtained all consents, including third party consents, necessary for it:

- (i) to execute this Loan Agreement and the Security Documents to which the Borrower is or is to be party;
- (ii) to borrow under this Loan Agreement and to make all the payments contemplated hereby, and to comply with all of its other obligations under this Loan Agreement and the Security Documents to which the Borrower is or is to be party; and
- (iii) to grant the Lender first priority Security Interest in respect of the Charged Assets pursuant to the Security Documents to which the Borrower is or is to be party;

7.1.3 this Loan Agreement and the Security Documents will, upon execution and delivery (and, where applicable, registration as provided for in this Loan Agreement and the Security Documents):

- (i) constitute the Borrower's legal, valid and binding obligations enforceable against the Borrower in accordance with their respective terms; and

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- (ii) create legal, valid and binding Security Interests enforceable in accordance with their respective terms;

7.1.4 the execution and (where applicable) registration by the Borrower of this Loan Agreement and each Security Document to which it is or is to be party, and the borrowing by the Borrower of the Loan and its compliance with this Loan Agreement and each Security Document to which it is or is to be party, will not involve or lead to a contravention of:

- (i) any applicable material law or other legal requirement; or
- (ii) the constitutional documents of the Borrower; or
- (iii) any contractual or other obligation or restriction which is binding on the Borrower or any of its assets;

7.1.5 all consents, licenses, approvals and authorizations required by the Borrower in connection with the entry into, performance, validity and enforceability of this Loan Agreement and the Security Documents to which it is or is to be party have been or (upon execution thereof) shall have been obtained by the Drawdown Date and are (or upon execution thereof shall be) in full force and effect;

7.1.6 all financial and other information furnished by or on behalf of the Borrower in connection with the negotiation of this Loan Agreement and the Security Documents pursuant to this Loan Agreement or the Security Documents was true and accurate in all material respects when given and there are no other facts or matters the omission of which would have made any statement or information contained therein misleading in any material respect and all projections and statements of belief and opinion given to the Lender were made in good faith after due and careful enquiry;

7.1.7 the Accounts were prepared in accordance with accounting principles and practices generally accepted in the United States, and consistently applied and fairly represent (in conjunction with the notes thereto) in all material respects the financial condition of the Borrower as at the date to which they were drawn up and the results of the Borrower's operations during the financial year then ended;

7.1.8 since publication of the Accounts, there has been no Material Adverse Change;

7.1.9 there is no action, proceeding or claim pending or, so far as the Borrower is aware or ought reasonably to be aware, threatened against any Group Company before any court or administrative agency which might have a material adverse effect on the business, condition of operations of the Borrower or any Group Company;

7.1.10 subject to the Permitted Security Interests and the IIA rights, the Borrower owns good and marketable title in all the Charged Assets, free from all Security Interests and other interests and rights of every kind, and all the Charged Assets are in good operating condition and repair (normal wear and tear excepted), and are adequate for the uses to which they are being put, and none of such Charged Assets are in need of maintenance or repairs except for ordinary, routine maintenance and repairs that are not material in nature or cost;

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7.1.11 the borrowing of the Loan Facility in full would not cause any borrowing limit binding on the Borrower respectively to be exceeded; and

7.1.12 the Borrower's representations and warranties set out in this Clause 7 shall survive the execution of this Loan Agreement and shall be deemed to be repeated on each Drawdown Date with respect to the facts and circumstances then existing, as if made at such time.

## 8 UNDERTAKINGS

The Borrower undertakes to the Lender to comply with the following provisions of this Clause 8 at all times during the Security Period, except as the Lender may

otherwise permit:

- 8.1.1 The Borrower will (and will procure that each Group Company will) obtain, effect and keep effective all material permissions, licenses, consents and permits which may from time to time be required (i) in connection with the Charged Assets and (ii) to conduct its business;
- 8.1.2 With the exception of the Permitted Security Interests, the Borrower will (and to the extent any Group Company has charged its assets pursuant to a Security Document, the Borrower shall procure that this Group Company shall) own only for its own account the Charged Assets free from all Security Interests and other interests and rights of every kind, except for those created by the Security Documents, and shall not (and shall ensure that no other Group Company will) create or permit to subsist any security over any of its assets;
- 8.1.3 The Borrower will not (and shall procure that each Group Company will not), without the Lender's prior written consent (such consent not to be unreasonably withheld, delayed or conditioned) sell, assign, transfer or otherwise dispose (collectively, "Transfers") of any of the Charged Assets or any share therein, except for the Permitted Transfers, and shall give immediate notice to the Lender of any judicial process or encumbrance affecting the Charged Assets; the Borrower will not Transfers any of the Intellectual Property, other than as permitted in the Security Documents, and shall give immediate notice to the Lender of any judicial process or encumbrance affecting the Charged Assets;
- 8.1.4 The Borrower will provide the Lender (and will procure that each Group Company will provide the Lender) with:
- 8.1.4.1 Intentionally omitted;
- 8.1.4.1.1 details of any changes to key management/directors of the Borrower within thirty (30) Business Days;
- 8.1.4.1.2 details of any Group Company incorporated on or after the date of this Loan Agreement within thirty (30) Business Days of such incorporation;
- 8.1.4.2 such other information (financial or otherwise) as the Lender may reasonably request from time to time concerning any of the Group Companies and its affairs (including, without limitation, information concerning the Charged Assets, any request for amplification or explanation of any item in the financial statements, budgets or other material provided by the Borrower under this Loan Agreement and evidence of meeting the conditions precedent requirements relative to the advance of the Loan).

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- 8.1.5 The Borrower will provide to the Lender all documents, confirmations and evidence required by the Lender to satisfy its "know your customer" requirements or similar identification checks in order to meet its obligations from time to time under applicable money laundering, or similar, laws and regulations;
- 8.1.6 The Borrower will provide the Lender, for so long as any amounts are due to the Lender hereunder, annual audited consolidated financial statements for each Group Company, certified by an independent certified public accountant reasonably acceptable to the Lender within one hundred and fifty (150) days of the end of fiscal year of the respective Group Company;
- 8.1.7 During the Loan Term, the Borrower will deliver (and shall procure that each Group Company will deliver) to the Lender copies of all notices, minutes, consents and other materials sent to the board of directors at the same time they are delivered to the directors and provide once annually annual operating budgets and protections within ten (10) days from the board of director's approval. Upon the occurrence and continuance of an Event of Default, the Lender shall be entitled to have a representative to attend all meetings of the Borrower's (and each Group Company's) board of directors in a non-voting observer capacity and the Borrower agrees (and shall procure that each Group Company agrees) to give notice of all board meetings to the Lender at the same time as to its directors;
- 8.1.8 to the extent not already provided or to the extent previously expired, the Borrower will (and will procure that each Group Company will) maintain in force and promptly obtain or renew, and will promptly send copies to the Lender of, all consents required:
- (i) for the Borrower and each Group Company to perform their obligations under this Loan Agreement and each Security Document, as relevant;
  - (ii) for the validity or enforceability of this Loan Agreement and any Security Document; and
  - (iii) for the Borrower and each Group Company to continue to own the Charged Assets,
- and the Borrower will, and will procure that each Group Company will, comply with the terms of all such consents;
- 8.1.9 the Borrower will notify the Lender as soon as it becomes aware of:
- (i) the occurrence of an Event of Default; or
  - (ii) any matter which indicates that an Event of Default has occurred, may have occurred or is likely to occur,
- and will thereafter keep the Lender fully up to date with all developments;
- 8.1.10 the Borrower will (and shall ensure that each Group Company will) maintain adequate risk protection through insurances on and in relation to its business and assets to the extent reasonably required on the basis of good business practice taking into account, *inter alia*, their (and any Group Company's) financial position and nature of operations. All insurances must be with reputable independent insurance companies or underwriters;

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- 8.1.11 the Borrower shall not (and shall ensure that no Group Company will) incur or allow to remain outstanding any Financial Indebtedness, except:
- (i) any Permitted Indebtedness or any other indebtedness under this Loan Agreement;
  - (ii) where a Group Company is lending to or borrowing from the Borrower or another Group Company;
  - (iii) non-speculative hedging transactions entered into in the ordinary course of business in connection with protection against interest rate or currency fluctuations; and

- (iv) arising in the ordinary course of business with suppliers of goods.
- 8.2 The Borrower shall comply with Lender's reasonable and customary request in assisting Lender with all perfection requirements under the laws of the State of Israel and/or the laws of the relevant state in the United States and pursuant to and in accordance with the provisions of the Security Documents;
- 8.2.1 With the exception of the Permitted Indebtedness, the Borrower shall not (and shall ensure that no Group Company will) incur or allow to remain outstanding any Financial Indebtedness unless such Financial Indebtedness is on terms (including interest, repayment and subordination) reasonably satisfactory to the Lender;
- 8.2.2 With the exception of the Permitted Security Interests and any lien arising by operation of law, the Borrower shall not (and shall ensure that no other Group Company will) create or permit to subsist any Security Interest over any of its assets;
- 8.2.3 the Borrower shall not (and shall ensure that no other Group Company will) without the Lender's prior written consent (such consent not to be unreasonably withheld, delayed or conditioned):
- (i) Transfer any of its assets on terms whereby they are leased to or intended to be re-acquired by any Group Company; or
  - (ii) sell, transfer or otherwise dispose of any of its receivables on recourse terms;
  - (iii) enter into any arrangement under which money or the benefit of a bank or other account may be applied, set-off or made subject to a combination of accounts; or
  - (iv) enter into any other preferential arrangement having a similar effect.
- 8.2.4 The Borrower will not (and shall ensure that no other Group Company will) make any distribution by way of dividend, repurchase of shares, repayment of shareholder loans, or otherwise without the Lender's prior written consent (such consent not to be unreasonably withheld, delayed or conditioned). Notwithstanding the foregoing, Borrower may (i) convert any of its convertible securities into other securities pursuant to the terms of such convertible securities or otherwise in exchange thereof, and (ii) repurchase the stock of former employees or consultants pursuant to stock repurchase agreements so long as an Event of Default does not exist at the time of any such repurchase and would not exist after giving effect to any such repurchase, provided that the aggregate amount of all such repurchases does not exceed Five Hundred Thousand Dollars (\$500,000.00) per fiscal year;

- 8.2.5 The Borrower shall be responsible for all costs associated with the Charged Assets including all tax assessments, insurance premiums, operating costs and repair and maintenance costs as well as any fees associated with registering of any security granted in connection with this Loan; and
- 8.2.6 The Borrower shall at the written request of the Lender from time to time (and shall procure that each Group Company) execute and deliver such further documents creating Security Interests in favor of the Lender over such assets and in such form as the Lender may reasonably require in its discretion from time to time to: (i) secure all monies, obligations and liabilities of the Borrower and/or any Group Company to the Lender under this Loan Agreement or the Security Documents; (ii) facilitate the realization of the Charged Assets; or (iii) exercise the powers conferred on the Lender or a receiver appointed under any Security Document, from time to time.

## 9 EVENTS OF DEFAULT

- 9.1 An Event of Default occurs if:
- 9.1.1 the conditions set out in Clause 3.5 (except to the extent waived in writing by Lender) are not satisfactorily accomplished within forty-five (45) days of the date of this Loan Agreement unless the period for satisfactory accomplishment is extended in accordance with Clause 4.2; or
- 9.1.2 the Borrower fails to pay within five (5) Business Days of when due and payable any sum payable under this Loan Agreement or the Security Documents or under any document relating to the Security Documents; or
- 9.1.3 any other breach by the Borrower or any Group Company (as relevant) of any provision of this Loan Agreement or any Security Document, or the Borrower or any Group Company does not comply with, perform or observe any other obligation accepted or undertaken given by it to the Lender and said breach remains uncured for fifteen (15) Business Days; or
- 9.1.4 any representation, warranty or statement made by the Borrower in this Loan Agreement or the Security Documents or in the Drawdown Notice or any other notice or document relating to this Loan Agreement or any other Security Document is incorrect, untrue or misleading in any material respect when it is made or deemed repeated; or
- 9.1.5 Financial Indebtedness of any Group Company in an amount in excess of US\$300,000 is not paid when due other than as a result of a legitimate dispute or the granting of a grace-period or any Security Interests over any of the assets of any Group Company is lawfully enforced; or
- 9.1.6 any order shall be made by any competent court, a petition presented or any resolution shall be passed by any Group Company for the appointment of a liquidator, administrator or receiver of, or for the winding up of, any Group Company or a moratorium is imposed or declared over any or all of the assets and business of any Group Company (provided, however, that if Borrower submits a demand of revocation within thirty (30) days after such petition or resolution are being imposed, such petition or resolution shall be deemed to be an Event of Default only if they are not set aside, cancelled or revoked within sixty (60) Business Days after being imposed); or

- 9.1.7 an encumbrancer takes possession of or a receiver, liquidator, supervisor, compulsory manager, trustee, administrator or similar official is appointed over the whole or, in the reasonable opinion of the Lender, any material part of, the assets of any Group Company or a distress, execution or other process is levied or enforced upon or sued out against the whole or, in the opinion of the Lender, a material part of the assets of any Group Company (provided, however, that if Borrower submits a demand of revocation within thirty (30) Business Days after such petition or resolution are being imposed, such petition or resolution shall be deemed to be an Event of Default only if they are not set aside, cancelled or revoked within sixty (60) Business Days after being imposed); or
- 9.1.8 any binding judgment made against any Group Company in excess of US\$300,000 is not paid, to the extent so required, stayed or discharged within the applicable legal period; or

- 9.1.9 any Group Company shall stop payment or shall be unable to, or shall admit inability to, pay its debts as they fall due, or shall be adjudicated or declared bankrupt or insolvent, or shall enter into any composition or other arrangement with its creditors generally; or
- 9.1.10 any event shall occur which under the law of any jurisdiction to which any Group Company is subject has an effect equivalent or similar to any of the events referred to in Clause 9.1.5, 9.1.6 or 9.1.8; or
- 9.1.11 any Borrower ceases, threatens to cease, or suspends carrying on its business or a part of its business; or
- 9.1.12 it becomes unlawful or impossible (i) for the Borrower and/or any Group Company (as relevant) to discharge any liability under this Loan Agreement or to comply with any other obligation under this Loan Agreement or the Security Documents, or (ii) for the Lender to exercise or enforce any right under, or to enforce any Security Interest created by, this Loan Agreement or the Security Documents; *provided however* that if the Borrower proposes an alternate security which the Lender in its sole and absolute discretion accepts, and such alternate security is constituted in a manner acceptable to the Lender within such period of time as the Lender may reasonably require, such event shall cease to constitute an Event of Default; or
- 9.1.13 any provision of this Loan Agreement or the Security Documents proves to have been or becomes invalid or unenforceable and cannot be amended in order to restore or ensure validity or enforceability within thirty (30) Business Day from notification of such fault, or a Security Interest created by the Security Documents proves to have been or becomes invalid or unenforceable or such a Security Interest proves to have ranked after, or loses its priority to, another security interest or any other third party claim or interest (except for the Permitted Security Interests), provided however that if the Borrower and/or any Group Company proposes replacement security which the Lender accepts, and such replacement security is constituted in a manner acceptable to the Lender within such period of time as the Lender may reasonably require, such event shall cease to constitute an Event of Default; or

- 9.1.14 the security constituted by the Security Documents is in any way materially imperilled or in jeopardy provided however that if the Borrower and/or any Group Company proposes replacement security which the Lender accepts, and such replacement security is constituted in a manner acceptable to the Lender within such period of time as the Lender may reasonably require, such event shall cease to constitute an Event of Default; or
- 9.1.15 there exists a Material Adverse Change; or
- 9.1.16 any Event of Default (howsoever described) specified in the Security Documents shall occur; or
- 9.1.17 the IL Subsidiary has not received within ninety (90) days from Closing Date IIA Approval (as defined below).
- 9.1.18 any Event of Default which occurs with regard to a Group Company, shall immediately trigger an Event of Default with regard to the Borrower and each other Group Company, and with regard to any and all Loans outstanding at such time.

## 9.2 Lender's Rights

On or at any time following the occurrence of any Event of Default the Lender may:

- 9.2.1 serve on any of the Borrower a notice stating that all obligations of the Lender to such Borrower under this Loan Agreement including (without limitation) the obligation to advance the Loan (or any part thereof) are terminated; and/or
- 9.2.2 serve on any of the Borrower a notice stating that the Loan, all accrued interest and all other amounts accrued or owing under this Loan Agreement and the Security Documents are immediately due and payable; and/or
- 9.2.3 take any other action which, as a result of the Event of Default or any notice served under Clauses 9.2.1 or 9.2.2 above, the Lender is entitled to take under the Security Documents or any applicable law.

## 9.3 End of Lender's Obligations

On the service of a notice under Clause 9.2.1 and/or Clause 9.2.2, all the obligations of the Lender to the Borrower under this Loan Agreement shall terminate.

## 9.4 Acceleration

- 9.4.1 On the service of a notice under Clause 9.2.2, the following sums shall become immediately due and payable:
- 9.4.1.1 the outstanding principal amount of the Loan;
- 9.4.1.2 all accrued and unpaid interest;
- 9.4.1.3 in respect of each Tranche, the aggregate of the monthly interest payments scheduled to be paid by the Borrower on each Monthly Repayment Date (as is set out in the most recent Repayment Schedule issued by the Lender) for the period from the date of prepayment to the expiry of the Loan Term, in each case discounted from the applicable Monthly Repayment Date to the date of prepayment at the rate of 2% per annum;
- 9.4.1.4 the End of Loan Payment;

- 9.4.1.5 all unpaid fees, costs and expenses payable by the Borrower to the Lender under this Loan Agreement; and
- 9.4.1.6 all other sums payable by the Borrower to the Lender under this Loan Agreement and the Security Documents.
- 9.4.2 Notwithstanding anything contained herein to the contrary, in the event of acceleration of the Loan pursuant to this Clause 9.4, the provisions of Clause 5.4 shall not apply.
- ## 9.5 Waiver of Event of Default

The Lender, at its sole and absolute discretion, may waive any Event of Default hereunder, prior to or after the event or events giving rise thereto, provided that such waiver may be effected only by written notice provided by the Lender to each of the Borrower to that effect (and subject further to Clause 15.3 below); it being understood and acknowledged, that if and so long as no notice of waiver of an Event of Default was so provided, such Event of Default shall be deemed as having occurred and in effect for all purposes hereunder.

## 9.6 **Change of Control**

9.6.1 All the obligations of the Lender to the Borrower under this Loan Agreement shall terminate if there is a Change of Control (as defined below) in the Borrower. In such event, unless the Lender agrees otherwise by written notice to the Borrower (such approval not to be unreasonably withheld, delayed or conditioned), immediately and simultaneously with the closing of the transaction that constitutes a Change of Control (i) the Borrower shall prepay the outstanding Loan in accordance with Clause 5.4 above; and (ii) all other amounts accrued or owing under this Loan Agreement and the Security Documents shall become due and payable.

9.6.2 For purposes of this Clause 9.6, a “**Change of Control**” means (a) at any time, any “person” or “group” (as such terms are used in Sections 13(d) and 14(d) of the Exchange Act) shall become the “beneficial owner” (as defined in Rules 13(d)-3 and 13(d)-5 under the Exchange Act), directly or indirectly, of fifty percent (50.0%) or more of the ordinary voting power for the election of directors of Parent other than by the sale of Parent’s equity securities in (i) a public offering or (ii) to venture capital or private equity investors (“**VC or PE Change of Control**”) so long as Borrower identifies to Lender the venture capital or private equity investors at least seven (7) Business Days prior to the closing of the transaction and provides to Lender a description of the material terms of the transaction; (b) during any period of twelve (12) consecutive months, a majority of the members of the board of directors or other equivalent governing body of Parent cease to be composed of individuals (i) who were members of that board or equivalent governing body on the first day of such period, (ii) whose election or nomination to that board or equivalent governing body was approved by individuals referred to in clause (i) above constituting at the time of such election or nomination at least a majority of that board or equivalent governing body or (iii) whose election or nomination to that board or other equivalent governing body was approved by individuals referred to in clauses (i) and (ii) above constituting at the time of such election or nomination at least a majority of that board or equivalent governing body; or (c) at any time, Parent shall cease to own and control, of record and beneficially, directly or indirectly, one hundred percent (100.0%) of each class of outstanding capital stock or ownership interests of each Subsidiary of Parent free and clear of all Security Interests (except Security Interests created by this Loan Agreement) and Permitted Security Interests that are permitted pursuant to the terms of this Loan Agreement to have superior priority to Lender’s Security Interests under this Loan Agreement and the Loan Documents.

## 10 **FEES, EXPENSES AND TAXES**

### 10.1 **Transaction Fee**

The Parties hereby agree and acknowledge that the Transaction Fee and other expenses shall be paid by the Borrower to the Lender as follows:

upon the execution of this Loan Agreement and the funding of the Bullet Loan and the Amount B Loan (i) the Transaction Fee in an amount of US \$150,000; and (ii) all reasonable out-of-pocket expenses related to registration of the Security Interest; and (iii) all reasonable out-of-pocket expenses of Lender in connection with the negotiation and execution of this Loan Agreement, including, without limitation, reasonable costs of due diligence and reasonable fees of attorneys, appraisers, examiners and consultants up to an aggregate amount of US\$ 50,000 plus applicable VAT.

### 10.2 **Documentary Costs**

The Borrower shall promptly pay to the Lender on the Lender’s demand, the reasonable legal expenses and actual disbursements incurred by the Lender in connection with the following, plus VAT, to the extent applicable;

- 10.2.1 any amendment or supplement to this Loan Agreement or the Security Documents, or any proposal for such an amendment to be made; and
- 10.2.2 any consent or waiver by the Lender concerned under or in connection with this Loan Agreement or the Security Documents or any request for such a consent or waiver; and
- 10.2.3 any step taken by the Lender with a view to the protection, exercise or enforcement of any right or Security Interest created by this Loan Agreement or the Security Documents or for any similar purpose.

### 10.3 **Certain taxes and duties**

The Borrower shall promptly pay any documentary, stamp or other equivalent tax or duty payable on or by reference to this Loan Agreement or the Security Documents, and shall, on the Lender’s demand, fully indemnify the Lender against any costs, losses, liabilities and expenses resulting from any failure or delay by any of the Borrower to pay such a tax.

### 10.4 **Recovery of Overdue Fees**

Without prejudice to any other provisions of this Loan Agreement, the Lender shall be entitled (and the Borrower hereby irrevocably authorizes the Lender), at any time and from time to time, to apply any credit balance to which any of the Borrower are then entitled on any account with the Lender in satisfaction of the sum or sums from time to time owing by such Borrower to the Lender under and/or pursuant to this Clause 10. The Lender shall give notice to the Borrower of any such application promptly thereafter.

### 10.5 **Liability for Taxes**

- 10.5.1 The Borrower shall make all payments to be made by it without any Tax deduction, unless a Tax deduction is required by law. The Borrower shall promptly upon becoming aware that it must make a Tax deduction (or that there is any change in the rate or the basis of a Tax deduction) notify the Lender.
- 10.5.2 If a Tax deduction is required by law to be made by the Borrower, Borrower shall make that Tax deduction and any payment required in connection with that Tax deduction within the time allowed and at the applicable withholding rate required by law.

10.5.3 Within thirty (30) days of making either a Tax deduction or any payment required in connection with that Tax deduction, the Borrower shall deliver to the Lender, upon Lender's request, evidence reasonably satisfactory to it that the Tax deduction has been made or (as applicable) any appropriate payment paid to the relevant taxing authority.

## 10.6 **Illegality and Increased Costs**

10.6.1 If it is or becomes contrary to any law or regulation for the Lender to make available the Loan Facility (or any part thereof) or to maintain its obligations to do so or fund the Loan (or any part thereof), the Lender shall promptly notify the Borrower whereupon (a) the Lender's obligations to make the Loan Facility (or any part thereof) available shall be terminated; and (b) the Borrower shall be obliged to prepay the Loan, without premium or penalty, either (i) forthwith, or (ii) on a future specified date on or before the latest date permitted by the relevant law or regulation.

10.6.2 If the result of any change in (or in the interpretation, administration or application of), or to the generally accepted interpretation or application of, or the introduction of, any law or regulation is to subject the Lender to Taxes or change the basis of the payment of Taxes by the Lender with respect to any payment under this Loan Agreement (other than Taxes on the overall net income, profits or gains of the Lender), then (i) the Lender shall notify the Borrower in writing of such event promptly upon its becoming aware of the same; and (ii) the Borrower shall on demand, made at any time whether or not the Loan has been repaid, pay to the Lender the amount of the increased costs which the Lender has suffered as a result.

## 11 **INDEMNITIES**

### 11.1 **Indemnity for Non-Scheduled Payments**

Without derogating from Clause 9 above, the Borrower shall indemnify the Lender fully on its demand in respect of all expenses, liabilities and losses which are suffered or incurred by the Lender, as a result of or in connection with:

- 11.1.1 any Tranche not being borrowed on the date specified in the Drawdown Notice for any reason other than a default by the Lender;
- 11.1.2 any failure (for whatever reason) by any of the Borrower to make payment of any amount due under this Loan Agreement or the Security Documents on the due date or, if so payable, on demand; or
- 11.1.3 the occurrence and/or continuance of an Event of Default and/or the acceleration of repayment of the Loan under Clause 9.4, and in respect of any Taxes for which the Lender is liable or held liable in connection with any amount paid or payable to the Lender (whether for its own account or otherwise) under this Loan Agreement or the Security Documents.

### 11.2 **Third Party Claims Indemnity**

The Borrower shall indemnify the Lender fully on its demand in respect of claims, demands, proceedings, liabilities, taxes, losses and expenses of every kind, including without limitation reasonable legal fees and out-of-pocket expenses which were brought against, or incurred by, the Lender, in any country, in relation to any of the following:

- 11.2.1 any action lawfully taken, or omitted or neglected to be taken, under or in connection with this Loan Agreement or the Security Documents by the Lender or by any receiver appointed under the Security Documents after the occurrence of any Event of Default; and
- 11.2.2 any breach or inaccuracy of any of the representations and/or warranties contained in Clause 7 hereof or in the Security Documents or any breach of any covenant, commitment or agreement by the Borrower contained in Clause 8 hereof or elsewhere in this Loan Agreement or in the Security Documents.

In in each case other than to the extent solely as a result of the bad faith, gross negligence or willful misconduct of Lender.

## 12 **RISK AND INSURANCE**

12.1 All risk of loss, theft and damage of and to the Charged Assets from any cause whatsoever shall be the risk of the Borrower, and no such event shall relieve the Borrower of any obligation under a Drawdown Notice.

12.2 The Borrower shall:

- 12.2.1 bear all risk of loss of or damage to the Charged Assets whether insured against or not;
- 12.2.2 maintain with a reputable insurance company, in accordance with good and prudent practices of owners of such Charged Assets, fully comprehensive insurance under a standard form of "new for old" all risks policy or marine policy, third party, and business interruption for a 6 month period covering (or equivalent) (i) loss of or damage to, the Charged Assets and against such other risks as assets of the same type as the Charged Assets are normally (or when used in the manner or for the purposes for which the Charged Assets are to be used) insured, and the new replacement value of the Charged Assets; and (ii) legal liability whatsoever (including liability of the Lender in respect of its liability for negligent acts and/or omissions of the Borrower and its personnel, subject to a cross liability clause) to any third party whomsoever including any employee, agent or sub-contractor of the Lender or any of the Borrower who may suffer damage to or loss of property or death or personal injury, whether arising directly or indirectly from the Charged Assets or their use;
- 12.2.3 procure that the Lender and, if the Lender so requests, any affiliates of the Lender is an additional insured and that the interest of the Lender is noted under the policy and that the Lender is loss payee;
- 12.2.4 upon request, produce to the Lender the policy and all premium receipts;
- 12.2.5 promptly notify the Lender of any event which may give rise to a claim under the policy and upon request irrevocably appoint the Lender to be its sole agent to negotiate, agree or compromise such claim; and

12.2.6 upon request assign by way of security, or following the occurrence of an Event of Default, a complete assignment to the Lender, the Borrower's rights under such policy and irrevocably appoint the Lender to institute any necessary proceedings.

### 13 END OF LOAN PAYMENT

13.1 Upon the final repayment of each Tranche, the Borrower shall pay the Lender the End of Loan Payment with respect to such Tranche. Failure to pay the End of Loan Payment shall constitute a breach of this Loan Agreement

13.2 Upon payment of the End of Loan Payment for the last Tranche, subject to the terms of this Loan Agreement and the Security Documents (including the making of all payments hereunder and thereunder), the Lender shall take appropriate action to release the security over the Charged Assets.

13.3 If the Lender elects to convert any part of the Bullet Loan as provided for in Clause 5.5, then the End of Loan Payment shall not apply with respect to such converted part of the Bullet Loan.

### 14 NOTICES

14.1 Any notice, demand or other communication ("**Notice**") to be given by any party under, or in connection with, this Loan Agreement shall be in writing and signed by or on behalf of the party giving it. Any Notice shall be served by sending it by mail, fax or email to the number or address set out in Clause 14.2, or delivering it by hand to the address set out in Clause 14.2 and in each case marked for the attention of the relevant party set out in Clause 14.2 (or as otherwise notified from time to time in accordance with the provisions of this Clause 14). Any Notice so served by regular mail, fax, email or hand shall be deemed to have been duly given or made as follows:

14.1.1 if sent by fax or email, at the earlier of: (i) time of receipt of an automatic delivery receipt with respect to such email; or (ii) the receipt of any reply from the addressee of such email; or

14.1.2 in the case of delivery by regular mail or hand, when delivered,

provided that in each case where delivery by regular mail, fax, by email or by hand occurs after 5pm on a Business Day (local time in the place of receipt) or on a day which is not a Business Day, service shall be deemed to occur at 9am on the next following Business Day (local time in the place of receipt).

References to time in this Clause 14 are to local time in the country of the addressee.

14.2 The addresses and fax number of the parties for the purpose of this Clause 14 are as follows:

14.2.1 **Lender:**

Kreos Capital VI (Expert Fund) LP  
47 Esplanade, Saint Helier, Jersey  
Fax: +44 1534 889 884  
Attn: Raoul Stein  
E-mail: raoul@kreoscapital.com

with a copy (which shall not constitute a notice) to:

Kadouch & Co., Law Offices,  
11 Ha'Sadna'ot Street  
P.O.B. 12695  
4673300 Herzliya  
Israel  
Attn: Emmanuel Kadouch, Adv.  
Fax: +972-9-9525450  
Email: emmanuel@kadouchlaw.com

**Borrower:**

**Parent:**

Motus GI Holdings Inc  
Address: 1301 East Broward Boulevard, 3rd Floor  
Fort Lauderdale, Florida 33301  
Attn: Andrew Taylor  
E-mail: andrew@motusgi.com

**US Subsidiary:**

Motus GI LLC.  
Address: 1301 East Broward Boulevard, 3rd Floor  
Fort Lauderdale, Florida 33301  
Attn: Andrew Taylor  
E-mail: andrew@motusgi.com

**IL Subsidiary:**

Motus GI Medical Technologies Ltd.  
Address: 22 Keren ha-Yesod Street,  
Tirat Carmel, Israel  
Attn: Andrew Taylor  
E-mail: andrew@motusgi.com

With a copy (which shall not constitute a notice) to:

With a copy (which shall constitute a notice) to:  
Lowenstein Sandler LLP  
One Lowenstein Drive

- 14.3 A party may notify the other party to this Loan Agreement of a change to its name, relevant addressee, address, email or fax number for the purposes of this Clause 14, provided that such notice shall only be effective on:
- 14.3.1 the date specified in the notification as the date on which the change is to take place; or
- 14.3.2 if no date is specified or the date specified is less than five (5) Business Days after the date on which notice is given, the date following five (5) Business Days after notice of any change has been given.
- 14.4 In proving service it shall be sufficient to prove that the envelope containing such notice was properly addressed and delivered to the address shown thereon or that the facsimile transmission was made and a facsimile confirmation report was received, as the case may be.

## 15 GENERAL

- 15.1 All agreements, covenants, representations and warranties of each of the Borrower contained in this Loan Agreement or in the Drawdown Notices or other documents delivered pursuant hereto or in connection herewith and continuing, shall survive and remain binding until such time as Borrower shall have indefeasibly performed all its obligations hereunder, and the Lender has released all applicable Security Interest in favor of the Borrower.
- 15.2 If any of the Borrower shall fail to perform any of their obligations under any Drawdown Notice duly and promptly, the Lender may, at its option and at any time, perform the same without waiving any default on the part of the Borrower, or any of the Lender's rights. The Borrower shall reimburse the Lender, within five (5) Business Days after notice thereof is given to the Borrower, for all reasonable and out-of-pocket expenses and liabilities incurred by the Lender in the performance of the Borrower's obligations.
- 15.3 No failure to exercise, nor any delay in exercising, on the part of the Lender, any right or remedy hereunder shall operate as a waiver, nor shall any single or partial exercise of any right or remedy prevent any further or other exercise or the exercise of any other right or remedy. The rights and remedies provided in this Loan Agreement are cumulative and not exclusive of any rights or remedies provided by law or in equity. Waiver by the Lender of any default shall not constitute waiver of any other default.
- 15.4 The Borrower may not assign or transfer their rights, benefits and obligations under this Loan Agreement without the Lender's prior written consent. The Lender shall have the right, in its sole discretion, to assign, sell, pledge, grant a security interest in or otherwise encumber its rights under this Loan Agreement and/or one or more Drawdown Notices to any third party (an "Assignee"), or may be acting as an agent for any Assignee in entering into any Drawdown Notice. The Borrower hereby irrevocably consents to any assignment, sale, pledge, grant of a security interest or any other disposal to an Assignee. Each of the Borrower agree that if they receive notice from the Lender that it is to make payments under this Loan Agreement and/or any Drawdown Notice to such Assignee rather than to the Lender, or that any of their other obligations under the relevant Drawdown Notice are to be owed to the named Assignee, the Borrower shall comply with any such notice. Subject to the foregoing, this Loan Agreement and each Drawdown Notice inures to the benefit of, and is binding upon, the successors and assigns of the Lender.
- 15.5 The Borrower consents to the disclosure of information by the Lender to its Affiliates, Related Funds and to other parties to the Security Documents and potential Assignees.
- 15.6 Clause titles are solely for convenience and are not an aid in the interpretation of this Loan Agreement.
- 15.7 If, at any time, any provision herein is or becomes illegal, invalid or unenforceable in any respect under any law of any jurisdiction, neither the legality, validity or enforceability of the remaining provisions nor the legality, validity or enforceability of such provision under the law of any other jurisdiction will in any way be affected or impaired.
- 15.8 A person who is not a party to this Loan Agreement has no right to enforce or enjoy the benefits of this Loan Agreement.
- 15.9 This Loan Agreement, together with the Security Documents, constitutes the entire agreement between the parties with respect to the subject matter hereof. This Loan Agreement may not be modified except in writing executed by the Lender and the Borrower. No supplier or agent of the Lender is authorized to bind the Lender or to waive or modify any term of this Loan Agreement.
- 15.10 This Loan Agreement may be executed in counterparts (including email copies), each of which shall be an original, but all such counterparts shall together constitute one and the same instrument.

- 15.11 This Loan Agreement and the Security Documents and any claims, controversy, dispute or cause of action (whether in contract or tort or otherwise) based upon, arising out of or relating to this Loan Agreement or the Security Documents (except, as to the Security Documents, as expressly set forth therein) and the transactions contemplated hereby and thereby shall be governed by, and construed in accordance with, the laws of the State of New York. The Borrower and the Lender, each irrevocably submits to the jurisdiction of the courts of the State of New York located in New York County and the United States District Court for the Southern District of New York for the purpose of any suit, action, dispute proceeding or judgment relating to or arising out of this Loan Agreement, the Security Documents and the transactions contemplated hereby. Service of process in connection with any such suit, action or proceeding may be served on each party hereto anywhere in the world by the same methods as are specified for the giving of notices under this Loan Agreement. The parties each irrevocably consents to the jurisdiction of any such court in any such suit, action or proceeding and to the laying of venue in such court. The Borrower and the Lender each irrevocably waives any objection to the laying of venue of any such suit, action or proceeding brought in such courts and irrevocably waives any claim that any such suit, action or proceeding brought in any such court has been brought in an inconvenient forum. Nothing herein shall prevent the Lender from commencing any suit, action, proceeding or judgment relating to or arising out of this Loan Agreement, the Security Documents and the transactions contemplated hereby in any other court, jurisdiction or venue.

- 15.12 **THE LENDER AND EACH BORROWER WAIVES, TO THE EXTENT PERMITTED BY APPLICABLE LAW, ITS RIGHT TO A JURY TRIAL OF ANY CLAIM, CAUSE OF ACTION, OR PROCEEDING (WHETHER BASED IN CONTRACT, TORT, OR OTHERWISE) BASED UPON, ARISING OUT OF, CONNECTED WITH, OR RELATING TO THIS LOAN AGREEMENT, THE SECURITY DOCUMENTS, OR ANY TRANSACTION CONTEMPLATED HEREBY AND THEREBY, AMONG ANY OF THE PARTIES HERETO AND THERETO. THIS WAIVER IS A MATERIAL INDUCEMENT FOR THE PARTIES HERETO TO ENTER INTO THIS LOAN AGREEMENT AND THE SECURITY DOCUMENTS.**
- 15.13 Lender, or an agent appointed by it, in either case acting solely for this purpose as an agent of the Borrower, shall maintain a register (the **Register**) for the recordation of (i) the name and address of the Lender, and the commitments of, and principal amounts (and stated interest) of the Loans owing to, the Lender pursuant to the terms thereof from time to time and (ii) any transfers. The entries in the Register shall be conclusive absent manifest error. The Register shall be available for inspection by any Borrower and the Lender at any reasonable time and from time to time upon reasonable prior notice. The obligations of any Borrower under the Loan Agreement and the Security Documents are registered obligations and the right, title and interest of the Lender and its assignees in and to such obligations shall be transferable only upon notation of such transfer in the Register. This Clause 15.12 shall be construed so that such obligations are at all times maintained in "registered form" within the meaning of Sections 163(f), 871(h)(2) and 881(c)(2) of the Internal Revenue Code of 1986, as amended (the **"Code"**) and any related regulations (and any other relevant or successor provisions of the Code or such regulations).

**16 IIA CONSENT.**

- 16.1 The Lender acknowledges and understands that the IL Subsidiary is subject to the provisions of the Law for the Encouragement of Research and Development and Technological Innovation in Industry Law 5744-1984 - as amended from time to time and/or such other law as will be legislated in lieu thereof, including the regulations, directives, procedures and rules that have been or will be promulgated thereunder and/or by virtue thereof, including without limitation, Benefit Track Number 1 of the IIA, and other regulations, directives, guidelines, rules, as issued from time to time, by the IIA and the IIA Committee (collectively, the **"IIA Regulations"**) and the Lender is aware of the IL Subsidiary's obligation to comply with the IIA Regulations, including, but not limited to, the payment of royalties with respect to the financing amount which the IL Subsidiary received from the IIA and the prohibition on transferring any of the IL Subsidiary's knowhow (including by way of manufacturing or rights to manufacture outside of Israel).
- 16.2 In light of Section 16.1 above, and as required by the IIA Regulations, notwithstanding anything to contrary herein, in this Loan Agreement, the Debenture Fixed Charge or the Debenture Floating Charge, with respect to the IIA Funded Know-How (as such term is defined below), the coming into effect of both the Debenture Fixed Charge and the Debenture Floating Charge is subject and conditioned upon the receipt of the approval of the IIA (the **"IIA Approval"**).
- 16.3 The Lender shall sign any customary IIA documentation that may be required or desired with respect to the Debenture Fixed Charge and the Debenture Floating Charge.
- 16.4 It is further clarified that the documents which will be filed with the Companies Registrar and with the Israeli Patent Office (with respect to patents registered in Israel) with respect to the Debenture Fixed Charge and the Debenture Floating Charge shall include the condition set forth in Section 16.2 above regarding the IIA Approval.

As used in this Section 16, the term **"IIA Funded Know-How"** means, all of the Company's know-how resulting from research and development according to an IIA-approved plan, not being the product developed within the framework of such approved plan, and any right deriving therefrom.

- 17 **PORTFOLIO INTEREST EXEMPTION.** Lender agrees that payments of interest on the Loan are eligible for the "portfolio interest" exemption from U.S. federal withholding tax under Sections 871(h) and 881(c) of the U.S. Internal Revenue Code of 1986, as amended (the **"IRS Code"**), provided that Lender as intermediary and the beneficial owners of such interest (partners) provide the appropriate IRS Form(s) W-8 and that the beneficial owners are not a 10-percent shareholder of Borrower (within the meaning of Section 871(h)(3)(B) of the IRS Code), a controlled foreign corporation to which Borrower is related, or a bank extending credit to the Borrower in the ordinary course of its trade or business.

**SCHEDULE A**

**FORM OF DRAWDOWN NOTICE**

DRAWDOWN NOTICE

Drawdown  
No. [ ]

dated

between

**KREOS CAPITAL VI (EXPERT FUND) LP**

**MOTUS GI LLC;  
MOTUS GI HOLDINGS INC; AND MOTUS GI MEDICAL  
TECHNOLOGIES LTD**

the ("Lender")

the ("Borrower")

This Drawdown Notice forms a Schedule to a Loan Agreement between the Lender and the Borrower dated [ ] 2021 (the **'Loan Agreement'**)

The Lender has granted the Borrower a loan facility pursuant to the terms and conditions set out in the Loan Agreement and attached Schedules.

Words and expressions in this Drawdown Notice shall have the same meanings as in the Loan Agreement.

**PART 1**

**Loan Details**

**Total Loan Facility** up to US\$ 12,000,000  
**Amount of Loan Facility to be drawn down pursuant to this Drawdown Notice** [ ]  
**Loan Term** [ ]  
**Bank Account Details for remittance of funds** [ ]

We confirm that:

- (a) the representations and warranties made by us in the Loan Agreement are true and accurate on the date of this Drawdown Notice as if made on such date; and
- (b) no Event of Default has occurred and is continuing or would result from the delivery of this Drawdown Notice.

for and on behalf of

[ ]

Authorized Signatory.....

Name .....

Dated [ ] 202[ ]

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**SCHEDULE B**

**LIST OF EQUIPMENT**

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**SCHEDULE C1**

**ACCOUNT RECEIVABLES**

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**SCHEDULE C2**

**CUSTOMERS LIST**

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**SCHEDULE D**

**INITIAL SECURITY DOCUMENTS**

1. Security Agreement over the Parent's assets.
2. Security Agreement over the US Subsidiary's assets
3. Debenture Fixed Charge over the IL Subsidiary's assets.
4. Debenture Floating Charge over the IL Subsidiary's assets.

**SCHEDULE E  
LIST OF INTELLECTUAL PROPERTY**

**SCHEDULE 1.34  
PERMITTED INDEBTEDNESS**

“Permitted Indebtedness” is:

- (a) Financial Indebtedness of Borrower in favor of the Lender arising under this Loan Agreement or any associated documents including the Security Documents;
- (b) Financial Indebtedness of Borrower existing on the date of this Loan Agreement as shown on the MOTS/KREOS – DUE DILIGENCE REQUESTS and the DD Questionnaire (for the avoidance of doubt excluding the SVB Debt);
- (c) Financial Indebtedness incurred by Borrower and/or the Group Company subordinated to all of Borrower's and/or the Group Company's now or hereafter Financial Indebtedness to the Lender (pursuant to a subordination, intercreditor, or other similar agreement in form and substance reasonably satisfactory to the Lender entered into between the Lender and the other creditor), on terms acceptable to the Lender;
- (d) Unsecured Financial Indebtedness to trade creditors and suppliers incurred in the ordinary course of business;
- (e) Financial Indebtedness incurred as a result of endorsing negotiable instruments received in the ordinary course of business;
- (f) Financial Indebtedness owing to insurance carriers and incurred to financing insurance premiums of the Borrower in the ordinary course of business in a principal amount not to exceed at any time the amount of insurance premiums to be paid;
- (g) Financial Indebtedness secured by Security Interests permitted under clause (a) and (c) of the definition of Permitted Security Interests hereunder;
- (h) Financial Indebtedness of up to US\$ 500,000 in the aggregate incurred for financing the acquisition of Equipment (**Equipment Financing**);
- (i) Other unsecured Financial Indebtedness in an aggregate amount not to exceed US\$ 500,000 outstanding at any time;
- (j) Extensions, refinancing, modifications, amendments, restatement and renewals of any items of Permitted Indebtedness, provided that the principal amount is not increased or the terms thereof are not modified to impose more burdensome terms upon Borrower or the Group Company, as the case may be;
- (k) Accounting and other derivative based liabilities such as warrants and stock options; and
- (l) Any right of the IIA pursuant to currently existing approved IIA programs of the IL Subsidiary including, but not limited to, the payment of royalties with respect to the financing amount which the IL Subsidiary received from the IIA.

**SCHEDULE 1.35  
PERMITTED SECURITY INTERESTS**

“Permitted Security Interests” are

- (a) Any Security Interests in favor of the Lender arising under this Loan Agreement or any associated documents including the Security Documents;
- (b) Any Security Interests existing on the date of this Loan Agreement as shown on the MOTS/KREOS – DUE DILIGENCE REQUESTS and the DD Questionnaire (for the avoidance of doubt excluding the Security Interests granted pursuant to the SVB Debt);
- (c) Security Interests for taxes, fees, assessments or other governmental charges or levies;
- (d) Purchase money Security Interests or capital leases (i) of up to \$500,000 in the aggregate related to Equipment Financing, or (ii) existing on the Equipment when acquired, if the Security Interest is confined to the property and improvements and the proceeds of the Equipment;
- (e) Security Interests to secure payment of workers' compensation, employment insurance, old-age pensions, social security and other like obligations incurred in the ordinary course of business (other than Liens imposed by the Employee Retirement Income Security Act of 1974, and its regulations);
- (f) Security Interests incurred in the extension, renewal or refinancing of the indebtedness secured by Security Interests in (a) through (c) above, but any extension, renewal or replacement Security Interests must be limited to the property encumbered by the existing Security Interests and the principal amount of the indebtedness may not increase;

- (g) Leases or subleases of real property granted in the ordinary course of Borrower's business (or, if referring to another person, in the ordinary course of such person's business), and leases, subleases, non-exclusive licenses or sublicenses of personal property (other than Intellectual Property) granted in the ordinary course of Borrower's business (or, if referring to another person, in the ordinary course of such person's business), if the leases, subleases, licenses and sublicenses do not prohibit granting Lender a Security Interest therein;
- (h) non-exclusive licenses of Intellectual Property granted to third parties in the ordinary course of business;
- (i) Security Interests arising from attachments or judgments, orders, or decrees in circumstances not constituting an Event of Default under Sections 9.1.7 and 9.1.8; and
- (j) the rights of the IIA pursuant to applicable law and the terms of its grants with the IL Subsidiary.

#### SCHEDULE 1.37

##### PERMITTED TRANSFERS

"Permitted Transfers" are

- (a) Transfers of inventory in the ordinary course of business;
- (b) Transfers of worn-out or obsolete Equipment that is, in the reasonable judgment of Borrower, no longer economically practicable to maintain or useful in the ordinary course of business of Borrower;
- (c) Transfers consisting of Permitted Security Interests and Permitted Investments (hereinafter defined);
- (d) The sale or issuance by the Borrower of its own equity interests to the extent that any such issuance does not result in a Change of Control;
- (e) The use or transfer of money or cash equivalents in a manner that is not prohibited by the terms of this Loan Agreement or the Security Documents;
- (f) the non-exclusive licensing of patents, trademarks, copyrights, and other Intellectual Property rights in the ordinary course of business;
- (g) the Transfer of property (i) from any Borrower to any other Borrower, (ii) from any member of the Group (which is not a Borrower) to any other member of the Group, and (iii) from any Borrower to any Subsidiary that is not a party to this Loan Agreement, in the aggregate not to exceed US\$300,000;
- (h) Transfers of property of Borrower; provided that the aggregate consideration received during any fiscal year of the Borrower for all such Transfers shall not exceed US\$100,000; and
- (i) Transfers resulting from property loss events or takings and transfers of property that has suffered a property loss event or a taking (constituting a total loss or constructive total loss of such property) upon receipt of the cash proceeds of such property loss event or taking.

As used herein the term "Permitted Investments" shall mean investments: (1) (including, without limitation, Subsidiaries) existing on the date of this Loan Agreement which are shown on the MOTS/KREOS – DUE DILIGENCE REQUESTS and the DD Questionnaire; (2) consisting of cash equivalents; (3) consisting of the endorsement of negotiable instruments for deposit or collection or similar transactions in the ordinary course of Borrower; (4) accepted in connection with Permitted Transfers; (5) consisting of (i) travel advances and employee relocation loans and other employee loans and advances in the ordinary course of business, and (ii) loans to employees, officers or directors relating to the purchase of equity securities of Borrower or its Subsidiaries pursuant to employee stock purchase plans or agreements approved by the board of directors; (6) (including debt obligations) received in connection with the bankruptcy or reorganization of customers or suppliers and in settlements of delinquent obligations of, and other disputes with, customers or suppliers arising in the ordinary course of business; and (7) consisting of notes receivable of, or prepaid royalties and other credit extensions, to customers and suppliers who are not Affiliates, in the ordinary course of business; provided that this paragraph (g) shall not apply to investments of Borrower in any Subsidiary.

#### SCHEDULE 1.55

##### WARRANT

#### SCHEDULE 5.5

##### BULLET LOAN CONVERSION

1. All or any portion of the outstanding principal balance of the Bullet Loan shall at any time be subject to the conversion rights of the Lender set forth hereinbelow, pursuant to which the converted part of the Bullet Loan will be converted into that number of shares of Common Stock of the Parent (the "Conversion Shares") to be issued to the Lender at a price per share equal to the Conversion Price (as defined below). Following the conversion of any portion of the outstanding principal balance of the Bullet Loan pursuant to this Schedule 5.5, the principal balance of the Bullet Loan remaining outstanding shall bear interest at the Bullet Loan Applicable Interest Rate.
2. As used in this Schedule 5.5,

- (i) “**Common Stock**” means the common stock of the Parent, par value \$0.0001 per share, including any securities issued or issuable with respect thereto or into which or for which such shares may be exchanged for, or converted into, pursuant to any stock dividend, stock split, stock combination, recapitalization, reclassification, reorganization or other similar event;
- (ii) “**Conversion Price**” means \$1.40 per share of Common Stock, subject to adjustment as provided herein; and
- (iii) “**Securities Act**” means the Securities Act of 1933, as amended.
3. While any principal amount of the Bullet Loan remains outstanding, the Lender may convert the outstanding Bullet Loan in whole or in part at any time and from time to time by delivery to the Parent of a duly executed copy of the notice of conversion in the form attached as **Exhibit A** (the “**Notice of Conversion**”).
4. For purposes of Rule 144 promulgated under the Securities Act, it is intended, understood and acknowledged that the Conversion Shares issued upon conversion of the Bullet Loan shall be deemed to have been acquired by the Lender, and the holding period for such shares shall be deemed to have commenced, on the Drawdown Date of the Bullet Loan.
5. Upon conversion of the Bullet Loan in compliance with the provisions of this Schedule 5.5, the Parent shall promptly issue and cause to be delivered to the Lender a certificate for the Conversion Shares purchased by the Lender. Each conversion of the Bullet Loan shall be effective immediately prior to the close of business on the date on which the relevant Notice of Conversion has been delivered to the Parent; provided, that such Notice of Conversion is delivered in accordance with this Agreement prior to the close of business on such date (the “**Date of Conversion**”). On the first Business Day following the date on which the Parent has received each of the Notice of Conversion, the Parent shall transmit an acknowledgment of receipt of such Notice of Conversion to the Parent’s transfer agent (the “**Transfer Agent**”). On or before the third Business Day following the date on which the Parent has received the Notice of Conversion (the “**Share Delivery Date**”), the Parent shall (X) provided that the Transfer Agent is participating in The Depository Trust Company (“**DTC**”) Fast Automated Securities Transfer Program, upon the request of the Lender, credit such aggregate number of shares of Common Stock to which the Lender is entitled pursuant to such conversion to the Lender’s or its designee’s balance account with DTC through its Deposit Withdrawal Agent Commission system, or (Y) if the Transfer Agent is not participating in the DTC Fast Automated Securities Transfer Program, issue and dispatch by overnight courier to the address as specified in the Notice of Conversion, a certificate, registered in the Parent’s share register in the name of the Lender or its designee, for the number of shares of Common Stock to which the Lender is entitled pursuant to such conversion. Upon delivery of the Notice of Conversion, the Lender shall be deemed for all corporate purposes to have become the holder of record of the Conversion Shares with respect to which the relevant part of the Bullet Loan has been converted, irrespective of the date of delivery of the certificates evidencing such Conversion Shares.

6. Partial Conversion. If the Bullet Loan is converted in part, the remaining outstanding principal of the Bullet Loan shall be available for additional conversions hereunder.
7. The Parent covenants that all Conversion Shares will, upon issuance in accordance with the terms hereof, be (i) duly authorized, fully paid and non-assessable, and (ii) free from all liens, charges and security interests, with the exception of claims arising through the acts or omissions of the Lender and except as arising from applicable Federal and state securities laws.
8. The Parent will not, by amendment of its certificate of incorporation, by-laws or through any reorganization, transfer of assets, consolidation, merger, dissolution, issue or sale of securities or any other voluntary action, avoid or seek to avoid the observance or performance of any of the terms to be observed or performed hereunder by the Parent, but will at all times in good faith assist in the carrying out of all the provisions hereof and in the taking of all action necessary or appropriate in order to protect the rights of the Lender to convert the Bullet Loan, or against impairment of such rights.
9. Adjustments of Conversion Price, Number and Type of Conversion Shares. The Conversion Price and the number of shares purchasable upon the conversion of the Bullet Loan shall be subject to adjustment from time to time upon the occurrence of the events described in this Section 9; provided, that notwithstanding the provisions of this Section 9, the Parent shall not be required to make any adjustment if and to the extent that such adjustment would require the Parent to issue a number of shares of Common Stock in excess of its authorized but unissued shares of Common Stock, less all amounts of Common Stock that have been reserved for issue upon the conversion of all outstanding securities convertible into shares of Common Stock and the exercise of all outstanding options, warrants and other rights exercisable for shares of Common Stock. If the Parent does not have the requisite number of authorized but unissued shares of Common Stock to make any adjustment, the Parent shall use its commercially reasonable efforts to obtain the necessary stockholder consent to increase the authorized number of shares of Common Stock to make such an adjustment pursuant to this Section 9.
- (a) Subdivision or Combination of Stock. In case the Parent shall at any time subdivide (whether by way of stock dividend, stock split or otherwise) its outstanding shares of Common Stock into a greater number of shares, the Conversion Price in effect immediately prior to such subdivision shall be proportionately reduced and the number of Conversion Shares shall be proportionately increased, and conversely, in case the outstanding shares of Common Stock of the Parent shall be combined (whether by way of stock combination, reverse stock split or otherwise) into a smaller number of shares, the Conversion Price in effect immediately prior to such combination shall be proportionately increased and the number of Conversion Shares shall be proportionately decreased. The Conversion Price and the Conversion Shares, as so adjusted, shall be readjusted in the same manner upon the happening of any successive event or events described in this Section 9(a).

- (b) Dividends in Stock, Property, Reclassification. If at any time, or from time to time, all of the holders of Common Stock (or any shares of stock or other securities at the time receivable upon the conversion of the Bullet Loan) shall have received or become entitled to receive, without payment therefore:
- i. any shares of stock or other securities that are at any time directly or indirectly convertible into or exchangeable for Common Stock, or any rights or options to subscribe for, purchase or otherwise acquire any of the foregoing by way of dividend or other distribution, or
  - ii. additional stock or other securities or property (including cash) by way of spin-off, split-up, reclassification, combination of shares or similar corporate rearrangement (other than shares of Common Stock issued as a stock split or adjustments in respect of which shall be covered by the terms of Section 9(a) above),

then and in each such case, the Conversion Price and the number of Conversion Shares to be obtained upon conversion of the Bullet Loan shall be adjusted proportionately, and the Lender shall, upon the conversion of the Bullet Loan, be entitled to receive, in addition to the number of shares of Common Stock receivable thereupon, and without payment of any additional consideration therefor, the amount of stock and other securities and property (including cash in the cases referred to above) that the Lender would hold on the date of such conversion had the Lender been the holder of record of such Common Stock as of the date on which holders of Common Stock received or became entitled to receive such shares or all other additional stock and other securities and property. The

Conversion Price and the Conversion Shares, as so adjusted, shall be readjusted in the same manner upon the happening of any successive event or events described in this Section 9(b).

- (c) Certificate as to Adjustments. Upon the occurrence of each adjustment or readjustment pursuant to this Section 9, the Parent at its expense shall promptly compute such adjustment or readjustment in accordance with the terms hereof and furnish to the Lender a certificate setting forth such adjustment or readjustment and showing in detail the facts upon which such adjustment or readjustment is based. The Parent shall promptly furnish or cause to be furnished to the Lender a like certificate setting forth: (i) such adjustments and readjustments; and (ii) the number of shares and the amount, if any, of other property which at the time would be received upon the conversion of the Bullet Loan.
  - (d) Certain Events. If any event occurs as to which the other provisions of this Section 9 are not strictly applicable but the lack of any adjustment would not fairly protect the conversion rights of the Lender hereunder in accordance with the basic intent and principles of such provisions, or if strictly applicable would not fairly protect the conversion rights of the Lender hereunder in accordance with the basic intent and principles of such provisions, then the Parent's Board of Directors will, in good faith, make an appropriate adjustment to protect the rights of the Lender.
10. Payment of Taxes. The Parent will pay all transfer and stock issuance taxes attributable to the preparation, issuance and delivery of the Conversion Shares including, without limitation, all documentary and stamp taxes; provided, however, that the Parent shall not be required to pay any tax in respect of the issuance or delivery of certificates for the Conversion Shares or other securities in respect of the Conversion Shares to any person or entity other than to the Lender

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11. Fractional Conversion Shares. No fractional Conversion Shares shall be issued upon conversion of the Bullet Loan. The Parent, in lieu of issuing any fractional Conversion Share, shall round up the number of Conversion issuable to nearest whole share.
12. No Stock Rights and Legend. The Lender shall not be entitled to vote or be deemed the holder of any other securities of the Parent that may at any time be issuable on the conversion of the Bullet Loan, nor shall anything contained herein be construed to confer upon the Lender, with respect to any non-converted part of the Bullet Loan, the rights of a stockholder of the Parent or the right to vote for the election of directors or upon any matter submitted to stockholders at any meeting thereof, or give or withhold consent to any corporate action or to receive notice of meetings or other actions affecting stockholders (except as provided herein), or to receive dividends or subscription rights or otherwise (except as provide herein).

Each certificate for Conversion Shares initially issued upon the conversion of the Bullet Loan, and each certificate for Conversion Shares issued to any subsequent transferee of any such certificate, shall be stamped or otherwise imprinted with a legend in substantially the following form:

“THE SECURITIES REPRESENTED BY THIS CERTIFICATE HAVE NOT BEEN REGISTERED UNDER THE SECURITIES ACT OF 1933, AS AMENDED (THE “ACT”), OR ANY STATE SECURITIES LAWS, AND NEITHER SUCH SECURITIES NOR ANY INTEREST THEREIN MAY BE OFFERED, SOLD, PLEDGED, ASSIGNED OR OTHERWISE TRANSFERRED UNLESS (1) A REGISTRATION STATEMENT WITH RESPECT THERETO IS EFFECTIVE UNDER THE ACT AND ANY APPLICABLE STATE SECURITIES LAWS, OR (2) AN EXEMPTION FROM SUCH REGISTRATION EXISTS AND THE COMPANY RECEIVES AN OPINION OF COUNSEL TO THE HOLDER OF SUCH SECURITIES, WHICH COUNSEL AND OPINION ARE REASONABLY SATISFACTORY TO THE COMPANY, THAT SUCH SECURITIES MAY BE OFFERED, SOLD, PLEDGED, ASSIGNED OR TRANSFERRED IN THE MANNER CONTEMPLATED WITHOUT AN EFFECTIVE REGISTRATION STATEMENT UNDER THE ACT OR APPLICABLE STATE SECURITIES LAWS.”

13. Notice of Record Date. Upon (a) any establishment by the Parent of a record date of the holders of any class of securities for the purpose of determining the holders thereof who are entitled to receive any dividend or other distribution, or right or option to acquire securities of the Parent, or any other right, or (b) any capital reorganization, reclassification, recapitalization, merger or consolidation of the Parent with or into any other corporation, any transfer of all or substantially all the assets of the Parent, or any voluntary or involuntary dissolution, liquidation or winding up of the Parent, or the sale, in a single transaction, of a majority of the Parent's voting stock (whether newly issued, or from treasury, or previously issued and then outstanding, or any combination thereof), the Parent shall mail to the Lender at least ten (10) Business Days, or such longer period as may be required by law, prior to the record date specified therein, a notice specifying (i) the date established as the record date for the purpose of such dividend, distribution, option or right and a description of such dividend, option or right, (ii) the date on which any such reorganization, reclassification, transfer, consolidation, merger, dissolution, liquidation or winding up, or sale is expected to become effective and (iii) the date, if any, fixed as to when the holders of record of Common Stock shall be entitled to exchange their shares of Common Stock for securities or other property deliverable upon such reorganization, reclassification, transfer, consolidation, merger, dissolution, liquidation or winding up.

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14. Reservation of Shares. The Parent shall reserve and keep available out of its authorized but unissued shares of Common Stock for issuance upon conversion of the Bullet Loan, free from pre-emptive rights, such number of shares of Common Stock into which the Bullet Loan shall from time to time be convertible. The Parent will take all such reasonable action as may be necessary to assure that such Conversion Shares may be issued as provided herein without violation of any applicable law or regulation. Without limiting the generality of the foregoing, the Parent covenants that it will use commercially reasonable efforts to take all such action as may be necessary or appropriate in order that the Parent may validly and legally issue fully paid and nonassessable Conversion Shares upon the conversion of the Bullet Loan and use commercially reasonable efforts to obtain all such authorizations, exemptions or consents, including but not limited to consents from the Parent's stockholders or Board of Directors or any public regulatory body, as may be necessary to enable the Parent to perform its obligations under this Agreement.
15. Forced Conversion. The Parent may require the conversion of all or any portion of the then outstanding principal balance of the Bullet Loan pursuant to the provisions hereof, pursuant to which the converted part of the Bullet Loan will be converted into Conversion Shares to be issued to the Lender at a price per share equal to the Conversion Price, if the average Closing Price (as defined below) per share of Common Stock for twenty (20) consecutive trading days, including the day of the actual conversion, is greater than 200% of the Conversion Price. The date of delivery from Parent to Lender of a notice of election to convert all or any portion of the then outstanding principal balance of the Bullet Loan pursuant to this Section 15 shall (a) be deemed the day of actual conversion and (b) the date the Lender shall be deemed for all corporate purposes to have become the holder of record of the Conversion Shares with respect to which the relevant part of the Bullet Loan has been converted, irrespective of the date of delivery of the certificates evidencing such Conversion Shares.

“**Closing Price**” means, for any date, the price determined by the first of the following clauses that applies: (a) if the Common Stock is then listed or quoted on the New York Stock Exchange, the NYSE MKT, the NASDAQ Global Select Market, the NASDAQ Global Market or the NASDAQ Capital Market or any other national securities exchange, the closing price per share of the Common Stock for such date (or the nearest preceding date) on the primary eligible market or exchange on which the Common Stock is then listed or quoted; (b) if prices for the Common Stock are then quoted on the OTC Bulletin Board or any tier of the OTC Markets, the closing bid price per share of the Common Stock for such date (or the nearest preceding date) so quoted; or (c) if prices for the Common Stock are then reported in the “Pink Sheets” published by the National Quotation Bureau Incorporated (or a similar organization or agency succeeding to its functions of reporting prices), the most recent closing bid price per share of the Common Stock so reported.

EXHIBIT A  
NOTICE OF CONVERSION

To Motus GI Holdings, Inc.:

Reference is made to the loan agreement entered into on \_\_\_\_\_ 2021, among Motus GI Holdings, Inc. (the "Parent"), Motus GI, LLC., Motus GI Medical Technologies Ltd and Kreos Capital VI (Expert Fund) LP for the provision of a Loan Facility of up to US \$12,000,000 (as may be amended from time to time, the "Loan Agreement").

Capitalized terms used but not otherwise defined herein shall have the same meaning as in the Loan Agreement.

The undersigned hereby irrevocably elects to convert an amount of \_\_\_\_\_ out of the currently outstanding principal of the Bullet Loan and to purchase pursuant to the Loan Agreement, \_\_\_\_\_ shares of Motus GI Holdings, Inc. Common Stock.

The undersigned requests that certificates for such shares be issued in the name of:

\_\_\_\_\_  
(Please print name, address and social security or federal employer identification number (if applicable))  
\_\_\_\_\_

\_\_\_\_\_  
The undersigned hereby affirms that the undersigned is an accredited investor as defined under Rule 501 of Regulation D of the Securities Act of 1933. If the undersigned cannot make the foregoing affirmation because it is factually incorrect, it shall be a condition to the conversion of the Bullet Loan that the Parent receives such other representations as the Parent considers necessary, acting reasonably, to assure the Parent that the issuance of securities upon conversion of the Bullet Loan shall not violate any United States or other applicable securities laws.

Name (print): **KREOS CAPITAL VI (EXPERT FUND) LP**  
(Signature): \_\_\_\_\_  
(By): \_\_\_\_\_  
(Title): \_\_\_\_\_  
Dated: \_\_\_\_\_

Duly executed by the parties on the date first set out on the first page of this Loan Agreement.

**BORROWER**

Parent:  
**MOTUS GI HOLDINGS INC**

By: /s/ Andrew Taylor  
Andrew Taylor  
Chief Executive Officer and Secretary

Date: July 16, 2021

US Subsidiary:  
**MOTUS GI LLC**

By: Motus GI Holdings, Inc., its Sole Member

By: /s/ Andrew Taylor  
Andrew Taylor  
Chief Executive Officer and Secretary

Date: July 16, 2021

IL Subsidiary:  
**MOTUS GI MEDICAL TECHNOLOGIES LTD**

By: /s/ Andrew Taylor  
Andrew Taylor  
Authorized Officer

Date: July 16, 2021

**LENDER**

For and on behalf of  
**KREOS CAPITAL VI (EXPERT FUND) LP**

By: /s/ Raoul Stein  
Raoul Stein  
General Partner

Date: July 16, 2021

## SECURITY AGREEMENT

This SECURITY AGREEMENT is entered into as of July 16, 2021, by and among **KREOS CAPITAL VI (EXPERT FUND) LP**, a limited partnership incorporated in Jersey under registered number 2770 whose registered office is at 47 Esplanade, St. Helier, Jersey (referred hereinafter as the “**Lender**” which expression shall include its respective successors and assigns); and **MOTUS GI HOLDINGS, INC.**, a Delaware corporation whose registered office is at 850 New Burton Road, Suite 201, Dover, DE 19904, Kent County, Delaware (“**Debtor**”).

### RECITALS

Debtor, **MOTUS GI, LLC.**, the Debtor's US subsidiary company, a Delaware limited liability company, **MOTUS GI MEDICAL TECHNOLOGIES LTD** the Debtor's Israeli subsidiary whose registered office is at 22 Keren ha-Yesod Street, Tirat Carmel, Israel, (each a “**Borrower**” and together “**Borrowers**”) and the Lender have entered into a certain Agreement for the provision of a Loan Facility of up to US \$12,000,000 dated as of July 16, 2021 (as may be amended from time to time, the “**Loan Agreement**”). All references in this Security Agreement to the Loan Agreement shall include all agreements, documents and instruments annexed thereto, as applicable.

As a condition to the Lender entering into the Loan Agreement, the Debtor is entering into this Security Agreement, to secure the payment and performance of the Loan and other obligations of the Borrowers under the Loan Agreement by the Borrowers, respectively, in accordance with the terms of this Security Agreement. Capitalized terms used but not otherwise defined herein shall have the same meaning as in the Loan Agreement or, as applicable, in the Code.

The parties agree as follows:

### **1 CREATION OF SECURITY INTEREST**

**1.1 Grant of Security Interest.** Debtor hereby grants Lender, to secure the payment and performance in full of all of the obligations of the Borrowers under the Loan Agreement, a continuing security interest in, and pledges and assigns to the Lender, the Collateral, wherever located, whether now owned or hereafter acquired or arising, and all proceeds and products thereof. Debtor warrants and represents that the security interest granted herein shall at all times be a first priority security interest in the Collateral (all, subject to the Permitted Security Interests).

Lender's lien and security interest in the Collateral shall continue until the Loan Agreement is terminated pursuant and subject to the terms set forth therein. Following such termination, the Lender shall execute any additional documents as shall reasonably be requested by the Debtor in order to remove any lien or security interest created for the benefit thereof hereunder. If Debtor shall at any time, acquire a commercial tort claim valued more than \$300,000, Debtor shall promptly send a written notification signed by Debtor to the Lender of the brief details thereof and grant to the Lender in such writing a security interest therein and in the proceeds thereof, all upon the terms of this Security Agreement, with such writing to be in form and substance reasonably satisfactory to the Lender.

**1.2 Authorization to File Financing Statements.** Debtor hereby authorizes the Lender to file financing statements with all appropriate jurisdictions in order to perfect or protect Lender's interest or rights in the Collateral, including a notice that any disposition of the Collateral, other than with respect to licenses to use Debtor's Intellectual Property in the ordinary course of business or in connection with a Permitted Security Interest, by either the Debtor or any other Person, shall be deemed to violate the rights of the Lender under the Code.

**2 REPRESENTATIONS AND WARRANTIES.** Except as previously disclosed to Lender, Debtor represents and warrants that none of the tangible components of the Collateral shall be maintained at locations other than in the address as stated above or otherwise leased by Debtor. In the event that Debtor, after the date hereof, intends to store or otherwise deliver any portion of the Collateral to a bailee, then Debtor will first receive the written consent of the Lender and such bailee must acknowledge in writing that the bailee is holding such Collateral for the benefit of the Lender. The entire inventory of the Debtor is in all material respects of good and marketable quality, free from material defects.

### **3 AFFIRMATIVE COVENANTS**

**3.1** Debtor shall comply with the affirmative covenants set forth in the Loan Agreement.

**3.2 Operating Accounts.** Debtor shall:

(i) Maintain all of its Collateral Accounts located in the United States within accounts which are subject to a Control Agreement in favor of the Lender. As of the date hereof, the identity and location of each such Collateral Account is listed on Schedule A attached hereto.

(ii) Debtor shall provide the Lender five (5) days' prior written notice before Debtor or any Obligor (as defined below) establishes any Collateral Account at or with any Person located in the United States. In addition, for each Collateral Account located in the United States that Debtor or any Obligor, at any time maintains, Debtor or such Obligor shall cause the applicable bank or financial institution at or with which such Collateral Account is maintained to execute and deliver a Control Agreement or other appropriate instrument with respect to such Collateral Account to perfect Lender's Lien in such Collateral Account in accordance with the terms hereunder prior to the establishment of such Collateral Account, which Control Agreement may not be terminated, without prior written consent of the Lender (such consent not be unreasonably withheld, delayed or conditioned). Without Lender's consent (such consent not be unreasonably withheld, delayed or conditioned), none of the Borrowers shall maintain any Collateral Accounts located in the United States, except Collateral Accounts maintained in accordance with this Section 3.2.

**3.3 Registration of Intellectual Property Rights.**

Debtor and any Obligor shall promptly give the Lender written notice of any such applications or registrations of its material intellectual property rights filed with the United States Patent and Trademark Office and the United States Copyright Office, including the date of such filing and the registration or application numbers, if any. At any time and from time to time the Borrowers shall execute and deliver such further instruments and take such further action as may reasonably be requested by the Lender to effect the purposes of this Security Agreement. Notwithstanding anything contained herein to the contrary, all references to “intellectual property” contained in this Security Agreement expressly exclude all Immaterial Intellectual Property.

### **4 EVENTS OF DEFAULT**

The occurrence of an Event of Default under the Loan Agreement shall be an Event of Default hereunder.

### **5 LENDER'S RIGHTS AND REMEDIES**

**5.1 Rights and Remedies.** Upon the occurrence and during the continuance of an Event of Default beyond any applicable notice and cure period, the Lender may, at its election, without notice of its election and without demand, do any one or more of the following, all of which are authorized by Debtor:

(a) set off any and all (i) balances of Debtor held by the Lender, or (ii) indebtedness at any time owing to or for the credit or the account of Debtor held by the Lender;

(b) ship, reclaim, recover, store, finish, maintain, repair, prepare for sale, advertise for sale, and sell the Collateral at either a public or private sale, or both, by way of one or more contracts or transactions, for cash or on terms, in such manner and at such places as the Lender determines is commercially reasonable. The Lender shall give to Debtor such notice of any public or private sale as may be required by the Code or other applicable law. Solely upon the occurrence and during the continuance of an Event of Default beyond any applicable notice and cure period, the Lender is hereby granted a non-exclusive, royalty-free license or other right to use, without charge, Debtor's labels, Patents, Copyrights, mask works, rights of use of any name, trade secrets, trade names, Trademarks, and advertising matter, or any similar property as it pertains to the Collateral, in completing production of, advertising for sale, and selling any Collateral, and solely in connection with Lender's exercise of its rights under this Section, Debtor's rights under all licenses and all franchise agreements shall inure to Lender's benefit;

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(c) declare the Loan immediately due and payable as set forth in the Loan Agreement;

(d) stop advancing money or extending credit for benefit of the Borrowers under the Loan Agreement or under any other agreement between the Borrowers and the Lender;

(e) settle or adjust disputes and claims directly with Account debtors for amounts on terms and in any order that the Lender considers advisable, notify any person owing Debtor money of Lender's security interest in such funds, and verify the amount of such account;

(f) make any payments and do any acts it considers necessary or reasonable to protect the Collateral and/or its security interest in the Collateral. Debtor shall assemble the Collateral if the Lender requests and make it available as the Lender designate. The Lender may enter premises where the Collateral is located, take and maintain possession of any part of the Collateral, and pay, purchase, contest, or compromise any lien which appears to be prior or superior to its security interest and pay all expenses incurred. Debtor grants the Lender a license to enter and occupy any of its premises, without charge, to exercise any of Lender's rights or remedies;

(g) (i) place a "hold" on any account maintained with the Lender and/or (ii) deliver a notice of exclusive control, any entitlement order, or other directions or instructions pursuant to any Control Agreement or similar agreements providing control of any Collateral (provided that such right pursuant to a Control Agreement shall terminate upon the Lender providing a notice of termination of exclusive control in accordance therewith);

(h) demand and receive possession of Debtor's Books; and

(i) exercise all rights and remedies available to the Lender under the Loan Documents, or at law or equity, including all remedies provided under the Code or applicable law (including disposal of the Collateral pursuant to the terms thereof).

The Lender acknowledges and agrees that, notwithstanding the language of any particular Control Agreement or similar agreement providing control of any Collateral, it shall not be entitled to deliver any notice of exclusive control, any entitlement order or any other direction or instruction pursuant thereto with respect to any Collateral Account or other Collateral unless an Event of Default shall have occurred and be continuing. The Lender shall endeavor to provide to Debtor a copy of any notice of exclusive control delivered by the Lender under a Control Agreement or similar agreement providing control of any Collateral, provided that the failure to timely provide any such copy shall not impact any right or remedy to which the Lender may be entitled (including, without limitation, any right to give a notice of exclusive control and exercise the rights as the result thereof).

**5.2 Remedies Cumulative.** The Lender's rights and remedies under this Security Agreement and all other agreements shall be cumulative. The Lender shall have all other rights and remedies not inconsistent herewith as provided under the Code, by law, or in equity. No exercise by the Lender of one right or remedy shall be deemed an election, and no waiver by the Lender of any Event of Default on the part of any Borrower shall be deemed a continuing waiver. No delay by the Lender shall constitute a waiver, election, or acquiescence by it.

**5.3 Demand; Protest.** Unless otherwise provided in the Loan Documents or required by applicable law, Debtor waives demand, protest, notice of protest, notice of default or dishonor, notice of payment and nonpayment, notice of any default, nonpayment at maturity, release, compromise, settlement, extension, or renewal of accounts, documents, instruments, chattel paper, and guarantees at any time held by the Lender on which Debtor may in any way be liable, other than as afforded herein.

**5.4 Power of Attorney.** Debtor hereby irrevocably appoints the Lender as its lawful attorney-in-fact, exercisable solely upon the occurrence and during the continuance of an Event of Default, to: (a) endorse Debtor's name on any checks or other forms of payment or security; (b) sign Debtor's name on any invoice or bill of lading for any Account or drafts against Account debtors; (c) settle and adjust disputes and claims about the Accounts directly with Account debtors, for amounts and on terms the Lender determines reasonable; (d) make, settle, and adjust all claims under Debtor's insurance policies; (e) pay, contest or settle any lien, charge, encumbrance, security interest, and adverse claim in or to the Collateral, or any judgment based thereon, or otherwise take any action to terminate or discharge the same; and (f) transfer the Collateral into the name of the Lender or a third party as the Code permits. Debtor shall perfect or continue the perfection of Lender's security interest in the Collateral regardless of whether an Event of Default has occurred until the Loan has been paid and satisfied in full and the Lender is under no further obligation to make Loans under the Loan Agreement. Lender's foregoing appointment as Debtor's attorney in fact, and all of rights and powers, coupled with an interest, upon and during an Event of Default, are irrevocable until the Loan has been fully repaid and performed and Lender's obligation to provide Loans terminates.

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## 6 NOTICES

All notices or demands by any party to this Security Agreement or any other related agreement must be in writing and be personally delivered or sent by an overnight delivery service, by certified mail, postage prepaid, return receipt requested, or by email or delivering it by hand at the addresses listed below. The Lender or Debtor may change its notice address by giving the other party written notice.

If to Debtor: MOTUS GI HOLDINGS, INC.  
1301 East Broward Boulevard, 3<sup>rd</sup> Floor  
Fort Lauderdale, Florida 33301  
Email: andrew@motusgi.com  
For the attention of: Andrew Taylor

With a copy (which shall not constitute a notice) to:  
Lowenstein Sandler LLP  
One Lowenstein Drive  
Roseland, New Jersey 07068

Email: sskolnick@lowenstein.com  
For the attention of: Steven Skolnick

If to Lender: Kreos Capital VI (Expert Fund) LP  
47 Esplanade St. Helier, Jersey  
Attn: Mr. Raoul Stein  
E-mail: Raoul@Kreoscapital.com

With a copy (which shall not constitute a notice) to:  
Kadouch & Co., Law Offices  
11 Ha' Sadnaot St.  
Herzliya 4673300, Israel  
Attn: Emmanuel Kadouch, Adv.  
E-mail: Emmanuel@kadouchlaw.com

## **7 CHOICE OF LAW AND VENUE; JURY TRIAL WAIVER**

**DELAWARE LAW GOVERNS THIS SECURITY AGREEMENT WITHOUT REGARD TO PRINCIPLES OF CONFLICTS OF LAW. DEBTOR ACCEPTS JURISDICTION OF THE COURTS AND VENUE IN DELAWARE. NOTWITHSTANDING THE FOREGOING, THE LENDER SHALL HAVE THE RIGHT TO BRING ANY ACTION OR PROCEEDING AGAINST DEBTOR OR ITS PROPERTY IN THE COURTS OF ANY OTHER JURISDICTION WHICH THE LENDER DEEMS NECESSARY OR APPROPRIATE IN ORDER TO REALIZE ON THE COLLATERAL OR TO OTHERWISE ENFORCE LENDER'S RIGHTS AGAINST DEBTOR OR ITS PROPERTY, INCLUDING THE COURTS OF THE STATE OF NEW YORK. DEBTOR AND THE LENDER EACH WAIVE THEIR RIGHT TO A JURY TRIAL OF ANY CLAIM OR CAUSE OF ACTION ARISING OUT OF OR BASED UPON THIS SECURITY AGREEMENT, THE LOAN DOCUMENTS OR ANY CONTEMPLATED TRANSACTION, INCLUDING CONTRACT, TORT, BREACH OF DUTY AND ALL OTHER CLAIMS. THIS WAIVER IS A MATERIAL INDUCEMENT FOR BOTH PARTIES TO ENTER INTO THIS SECURITY AGREEMENT. EACH PARTY HAS REVIEWED THIS WAIVER WITH ITS COUNSEL.**

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## **8 GENERAL PROVISIONS**

**8.1 Successors and Assigns.** This Security Agreement binds and is for the benefit of the successors and permitted assignees of each party. Debtor may not assign this Security Agreement or any rights under it without Lender's prior written consent which may be granted or withheld in Lender's discretion. The Lender shall have the right, without the consent of or notice to Debtor, to sell, transfer, negotiate, or grant participation in all or any part of, or any interest in, Lender's obligations, rights and benefits under this Security Agreement, all in accordance with Clause 14.4 of the Loan Agreement.

**8.2 Indemnification.** Debtor hereby indemnifies, defends and holds the Lender, and its directors, officers, employees and agents harmless against all losses or expenses incurred, or paid by the Lender consequential to enforcement of its rights in the Collateral pursuant to this Security Agreement (including reasonable attorneys' fees and expenses), except for losses caused solely by the gross negligence, fraud or willful misconduct of the Lender, or its directors, officers, employees or agents, all subject to the terms on Section 11 of the Loan Agreement.

**8.3 Right of Set-Off.** Debtor hereby grants to the Lender a lien, security interest and right of setoff as security to the Lender, whether now existing or hereafter arising upon and against all credits, collateral and property, now or hereafter in the possession, custody, safekeeping or control of the Lender or any entity under the control of the Lender or in transit to any of them. At any time after the occurrence and during the continuance of an Event of Default, without demand or notice, the Lender may set off the same or any part thereof and apply the same to any liability or obligation of the Borrowers then due and payable and regardless of the adequacy of any other collateral securing the Loan. ANY AND ALL RIGHTS TO REQUIRE THE LENDER TO EXERCISE ITS RIGHTS OR REMEDIES WITH RESPECT TO ANY OTHER COLLATERAL WHICH SECURES THE LIABILITIES, PRIOR TO EXERCISING ITS RIGHT OF SETOFF WITH RESPECT TO SUCH CREDITS OR OTHER PROPERTY OF THE DEBTOR, ARE HEREBY KNOWINGLY, VOLUNTARILY AND IRREVOCABLY WAIVED.

**8.4 Severability of Provisions.** Each provision of this Security Agreement is severable from every other provision in determining the enforceability of any provision.

**8.5 Amendments in Writing; Integration.** All amendments to this Security Agreement must be in writing signed by the Lender and Debtor. This Security Agreement and the Loan Agreement represent the entire agreement about this subject matter, and supersede prior negotiations or agreements. All prior agreements, understandings, representations, warranties, and negotiations between the parties about the subject matter of this Security Agreement and the Loan Agreement and the other loan documents merge into this Security Agreement and the Loan Agreement.

**8.6 Counterparts.** This Security Agreement may be executed in any number of counterparts and by different parties on separate counterparts, each of which, when executed and delivered, are an original, and all taken together, constitute one Agreement.

**8.7 Survival.** All covenants, representations and warranties made in this Security Agreement continue in full force while the Loan remains outstanding. The obligation of Debtor in Section 8.2 above to indemnify the Lender shall survive until the statute of limitations with respect to such claim or cause of action shall have run.

**8.8 Security for Loans; Amendment of the Loan Agreement.** Upon and during the continuance of an Event of Default beyond any applicable notice and cure period, Lender may: (a) take and hold security for the payment of the Loan, and exchange, enforce, waive and release any such security; and (b) apply such security and direct the order or manner of sale thereof as the Lender in its sole discretion may determine.

**8.9 Debtor Waivers.** Debtor waives any right to require the Lender to (a) proceed against Debtor any other Obligor, any other guarantor or any other person; (b) proceed against or exhaust any security held from the Debtor or any other Obligor; (c) marshal any assets of the Debtor or any other Obligor; or (d) pursue any other remedy in Lender's power whatsoever. The Lender may, at its election, exercise or decline or fail to exercise any right or remedy it may have against the Debtor or any other Obligor or any security held by the Lender, including without limitation the right to foreclose upon any such security by judicial or non-judicial sale, without affecting or impairing in any way the liability of Debtor hereunder. Debtor waives any defense arising by reason of any disability or other defense of the Debtor or any other Obligor or by reason of the cessation from any cause whatsoever of the liability of the Debtor or any other Obligor. Debtor waives any setoff, defense or counterclaim that Debtor or any other Obligor may have against the Lender. Debtor waives any defense arising out of the absence, impairment or loss of any right of reimbursement or subrogation or any other rights against the Debtor or any other Obligor. Until the Loan Agreement is terminated, Debtor shall not exercise any right of subrogation or reimbursement, contribution or other rights against any other Obligor, and, until the Loan Agreement is terminated, Debtor waives any right to enforce any remedy that the Debtor now has or may hereafter have against any other Obligor. Until the Loan Agreement is terminated, Debtor waives all rights to participate in any security now or hereafter held by the Lender. Debtor assumes the responsibility for being and keeping itself informed of the financial condition of the other Obligors and of all other circumstances bearing upon the risk of nonpayment of any indebtedness or nonperformance of any obligation of the other Obligors, warrants to the Lender that it will keep so informed, and agrees that absent a request for particular information by Debtor, the Lender shall have no duty to advise Debtor of information known to the Lender regarding such condition or any such circumstances.

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**8.10 Insolvency.** If the Parent becomes insolvent or is adjudicated bankrupt or files a petition for reorganization, arrangement, composition or similar relief under any present or future provision of the United States Bankruptcy Code and/or the Israeli Bankruptcy Law, or if such a petition is filed against the Parent, and in any such proceeding some or all of any indebtedness or obligations under the Loan Agreement is terminated or rejected or any obligation of the Parent is modified or abrogated, or if the Parent's obligations are otherwise avoided for insolvency, bankruptcy or any similar reason, Debtor agrees that Debtor's liability hereunder shall not thereby be affected or modified and such liability shall continue in full force and effect as if no such action or proceeding had occurred. This Security Agreement shall continue to be effective or be reinstated, as the case may be, if any payment must be returned by the Lender upon the insolvency, bankruptcy or reorganization of the Parent or Debtor, any other person, or otherwise, as though such payment had not been made.

## **9 DEFINITIONS**

### **9.1 Definitions.** In this Security Agreement:

"**Accounts**" shall mean any "account", as such term is defined in section 9-102(a)(2) of the Code, now owned or hereafter acquired by the Debtor and, in any event, shall include, without limitation, all accounts receivable, book debts, and other forms of obligations now owned or hereafter received or acquired by or belonging or owing to the Debtor (including, without limitation, under any trade names, styles, or divisions thereof) whether arising out of goods sold or services rendered by the Debtor or from any other transaction, whether or not the same involves the sale of goods or services by the Debtor (including, without limitation, any such obligation that might be characterized as an account or contract right under the Code) and all of the Debtor's rights in, to, and under all purchase orders or receipts now owned or hereafter acquired by it for goods or services, and all of the Debtor's rights to any goods represented by any of the foregoing (including, without limitation, unpaid seller's rights of rescission, replevin, reclamation, and stoppage in transit, and rights to returned, reclaimed, or repossessed goods), and all moneys due or to become due to the Debtor under all contracts for the sale of goods or the performance of services or both by the Debtor (whether or not yet earned by performance on the part of the Debtor or in connection with any other transaction), now in existence or hereafter occurring, including, without limitation, the right to receive the proceeds of such purchase orders and contracts, and all collateral security and guaranties of any kind given by any person or entity with respect to any of the foregoing.

"**Code**" is the Uniform Commercial Code, as the same may, from time to time, be enacted and in effect in the State of Delaware; provided, that, to the extent that the Code is used to define any term herein or in any security documents and such term is defined differently in different Articles or Divisions of the Code, the definition of such term contained in the Code shall govern; provided further, that in the event that, by reason of mandatory provisions of law, any or all of the attachment, perfection, or priority of, or remedies with respect to, Lender's lien on any Collateral is governed by the Uniform Commercial Code in effect in a jurisdiction other than the State of Delaware, the term "**Code**" shall mean the Uniform Commercial Code as enacted and in effect in such other jurisdiction solely for purposes of the provisions thereof relating to such attachment, perfection, priority, or remedies and for purposes of definitions relating to such provisions.

"**Collateral**" means all of the rights, title and interest in and to the following: the Debtor's assets, Contract Rights or rights to payment of money, leases, license agreements, franchise agreements, Intellectual Property, Equipment and Inventory (including as set forth on **Schedule B** attached hereto), Goods, cash and cash equivalents, Deposit Accounts, Accounts, all certificates of deposit, Chattel Paper, Fixtures, Letter of Credit Rights (whether or not the letter of credit is evidenced by a writing), commercial tort claims, General Intangibles, documents, Instruments (including any promissory notes) and Investment Property (including without limitation all capital stock of subsidiaries of Debtor), supporting obligations and financial assets, whether now owned or hereafter acquired, wherever located. All Debtor's Books relating to the foregoing and any and all claims, rights and interests in any of the above and all substitutions for, additions, attachments, accessories, accessions and improvements to and replacements, products, proceeds and insurance proceeds of any or all of the foregoing. For the avoidance of doubt, the Collateral does not include any Immaterial Intellectual Property nor does it include any of Debtor's capital shares.

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"**Control Agreement**" is any control agreement entered into among the depository institution at which Debtor or any Obligor maintains a Deposit Account or the securities intermediary or commodity intermediary at which Debtor or any Obligor maintains a Securities Account or a Commodity Account, Debtor, such Obligor, and Lender pursuant to which Lender obtains control (within the meaning of the Code) over such Deposit Account, Securities Account, or Commodity Account.

"**Debtor's Books**" are all Debtor's books and records including ledgers, records regarding Debtor's assets or liabilities, the Collateral, business operations or financial condition and all computer programs or storage or any equipment containing the information.

"**Intellectual Property**" is the "Intellectual Property" as defined in the Loan Agreement.

"**Collateral Account**" is any Deposit Account, Securities Account, or Commodity Account.

"**Deposit Account**" is any "deposit account" as defined in the Code with such additions to such term as may hereafter be made.

"**Commodity Account**" is any "commodity account" as defined in the Code with such additions to such term as may hereafter be made.

"**Securities Account**" is any "securities account" as defined in the Code with such additions to such term as may hereafter be made.

"**Loan**" refers to the loan under the Loan Agreement.

"**Loan Documents**" is the Loan Agreement, and all ancillary documents thereof.

"**Obligor**" is the Debtor or any Group Company (as defined in the Loan Agreement).

"**Proceeds**" shall mean "proceeds", as such term is defined in section 9-102(a)(64) of the Code and, in any event, shall include, without limitation, (i) any and all proceeds of any insurance, indemnity, warranty or guaranty payable to the Debtor from time to time with respect to any of the Collateral; (ii) any and all payments (in any form whatsoever) made or due and payable to the Debtor from time to time in connection with any requisition, confiscation, condemnation, seizure, or forfeiture of all or any part of the Collateral by any governmental body, authority, bureau, or agency (or any person acting under color of governmental authority); and (iii) any and all other amounts from time to time paid or payable under or in connection with any of the Collateral.

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IN WITNESS WHEREOF, the parties hereto have caused this Security Agreement to be executed as a sealed instrument under the laws of the State of Delaware as of the date first above written.

DEBTOR:

**MOTUS GI HOLDINGS, INC.**

By: /s/ Andrew Taylor  
Name: Andrew Taylor  
Title: Chief Financial Officer and Secretary

LENDER:

**KREOS CAPITAL VI (EXPERT FUND) LP**

By: /s/ Raoul Stein  
Name: Raoul Stein  
Title: Director

**SCHEDULE A**

**Details of Collateral Accounts**

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## SECURITY AGREEMENT

This SECURITY AGREEMENT is entered into as of July 16, 2021, by and among **KREOS CAPITAL VI (EXPERT FUND) LP**, a limited partnership incorporated in Jersey under registered number 2770 whose registered office is at 47 Esplanade, St. Helier, Jersey (referred hereinafter as the “**Lender**” which expression shall include its respective successors and assigns); and **MOTUS GI, LLC**, a Delaware limited liability company whose principal office is located at 1301 East Broward Boulevard, 3<sup>d</sup> Floor, Fort Lauderdale, Florida 33301 (“**Debtor**”).

### RECITALS

Debtor, **MOTUS GI HOLDINGS, INC.**, the Debtor’s parent company, a corporation incorporated in Delaware whose registered office is at 850 New Burton Road, Suite 201, Dover, DE 19904, Kent County, Delaware (the “**Parent**”), **MOTUS GI MEDICAL TECHNOLOGIES LTD** the Parent’s Israeli subsidiary whose registered office is at 22 Keren ha-Yesod Street, Tirat Carmel, Israel, (each a “**Borrower**” and together “**Borrowers**”) and the Lender have entered into a certain Agreement for the provision of a Loan Facility of up to US \$12,000,000 dated as of July 16, 2021 (as may be amended from time to time, the “**Loan Agreement**”). All references in this Security Agreement to the Loan Agreement shall include all agreements, documents and instruments annexed thereto, as applicable.

As a condition to the Lender entering into the Loan Agreement, the Debtor is entering into this Security Agreement, to secure the payment and performance of the Loan and other obligations of the Borrowers under the Loan Agreement by the Borrowers, respectively, in accordance with the terms of this Security Agreement. Capitalized terms used but not otherwise defined herein shall have the same meaning as in the Loan Agreement or, as applicable, in the Code.

The parties agree as follows:

### **1 CREATION OF SECURITY INTEREST**

**1.1 Grant of Security Interest.** Debtor hereby grants Lender, to secure the payment and performance in full of all of the obligations of the Borrowers under the Loan Agreement, a continuing security interest in, and pledges and assigns to the Lender, the Collateral, wherever located, whether now owned or hereafter acquired or arising, and all proceeds and products thereof. Debtor warrants and represents that the security interest granted herein shall at all times be a first priority security interest in the Collateral (all, subject to the Permitted Security Interests).

Lender’s lien and security interest in the Collateral shall continue until the Loan Agreement is terminated pursuant and subject to the terms set forth therein. Following such termination, the Lender shall execute any additional documents as shall reasonably be requested by the Debtor in order to remove any lien or security interest created for the benefit thereof hereunder. If Debtor shall at any time, acquire a commercial tort claim valued more than \$300,000, Debtor shall promptly send a written notification signed by Debtor to the Lender of the brief details thereof and grant to the Lender in such writing a security interest therein and in the proceeds thereof, all upon the terms of this Security Agreement, with such writing to be in form and substance reasonably satisfactory to the Lender.

**1.2 Authorization to File Financing Statements.** Debtor hereby authorizes the Lender to file financing statements with all appropriate jurisdictions in order to perfect or protect Lender’s interest or rights in the Collateral, including a notice that any disposition of the Collateral, other than with respect to licenses to use Debtor’s Intellectual Property in the ordinary course of business or in connection with a Permitted Security Interest, by either the Debtor or any other Person, shall be deemed to violate the rights of the Lender under the Code.

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**2 REPRESENTATIONS AND WARRANTIES.** Except as previously disclosed to Lender, Debtor represents and warrants that none of the tangible components of the Collateral shall be maintained at locations other than in the address as stated above or otherwise leased by Debtor. In the event that Debtor, after the date hereof, intends to store or otherwise deliver any portion of the Collateral to a bailee, then Debtor will first receive the written consent of the Lender and such bailee must acknowledge in writing that the bailee is holding such Collateral for the benefit of the Lender. The entire inventory of the Debtor is in all material respects of good and marketable quality, free from material defects.

### **3 AFFIRMATIVE COVENANTS**

**3.1** Debtor shall comply with the affirmative covenants set forth in the Loan Agreement.

**3.2 Operating Accounts.** Debtor shall:

(i) Maintain all of its Collateral Accounts located in the United States within accounts which are subject to a Control Agreement in favor of the Lender. As of the date hereof, the identity and location of each such Collateral Account is listed on Schedule A attached hereto.

(ii) Debtor shall provide the Lender five (5) days’ prior written notice before Debtor or any Obligor (as defined below) establishes any Collateral Account at or with any Person located in the United States. In addition, for each Collateral Account located in the United States that Debtor or any Obligor, at any time maintains, Debtor or such Obligor shall cause the applicable bank or financial institution at or with which such Collateral Account is maintained to execute and deliver a Control Agreement or other appropriate instrument with respect to such Collateral Account to perfect Lender’s Lien in such Collateral Account in accordance with the terms hereunder prior to the establishment of such Collateral Account, which Control Agreement may not be terminated, without prior written consent of the Lender (such consent not be unreasonably withheld, delayed or conditioned). Without Lender’s consent (such consent not be unreasonably withheld, delayed or conditioned), none of the Borrowers shall maintain any Collateral Accounts located in the United States, except Collateral Accounts maintained in accordance with this Section 3.2.

**3.3 Registration of Intellectual Property Rights.**

Debtor and any Obligor shall promptly give the Lender written notice of any such applications or registrations of its material intellectual property rights filed with the United States Patent and Trademark Office and the United States Copyright Office, including the date of such filing and the registration or application numbers, if any. At any time and from time to time the Borrowers shall execute and deliver such further instruments and take such further action as may reasonably be requested by the Lender to effect the purposes of this Security Agreement. Notwithstanding anything contained herein to the contrary, all references to “intellectual property” contained in this Security Agreement expressly exclude all Immaterial Intellectual Property.

### **4 EVENTS OF DEFAULT**

The occurrence of an Event of Default under the Loan Agreement shall be an Event of Default hereunder.

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## **5 LENDER'S RIGHTS AND REMEDIES**

**5.1 Rights and Remedies.** Upon the occurrence and during the continuance of an Event of Default beyond any applicable notice and cure period, the Lender may, at its election, without notice of its election and without demand, do any one or more of the following, all of which are authorized by Debtor:

(a) set off any and all (i) balances of Debtor held by the Lender, or (ii) indebtedness at any time owing to or for the credit or the account of Debtor held by the Lender;

(b) ship, reclaim, recover, store, finish, maintain, repair, prepare for sale, advertise for sale, and sell the Collateral at either a public or private sale, or both, by way of one or more contracts or transactions, for cash or on terms, in such manner and at such places as the Lender determines is commercially reasonable. The Lender shall give to Debtor such notice of any public or private sale as may be required by the Code or other applicable law. Solely upon the occurrence and during the continuance of an Event of Default beyond any applicable notice and cure period, the Lender is hereby granted a non-exclusive, royalty-free license or other right to use, without charge, Debtor's labels, Patents, Copyrights, mask works, rights of use of any name, trade secrets, trade names, Trademarks, and advertising matter, or any similar property as it pertains to the Collateral, in completing production of, advertising for sale, and selling any Collateral, and solely in connection with Lender's exercise of its rights under this Section, Debtor's rights under all licenses and all franchise agreements shall inure to Lender's benefit;

(c) declare the Loan immediately due and payable as set forth in the Loan Agreement;

(d) stop advancing money or extending credit for benefit of the Borrowers under the Loan Agreement or under any other agreement between the Borrowers and the Lender;

(e) settle or adjust disputes and claims directly with Account debtors for amounts on terms and in any order that the Lender considers advisable, notify any person owing Debtor money of Lender's security interest in such funds, and verify the amount of such account;

(f) make any payments and do any acts it considers necessary or reasonable to protect the Collateral and/or its security interest in the Collateral. Debtor shall assemble the Collateral if the Lender requests and make it available as the Lender designate. The Lender may enter premises where the Collateral is located, take and maintain possession of any part of the Collateral, and pay, purchase, contest, or compromise any lien which appears to be prior or superior to its security interest and pay all expenses incurred. Debtor grants the Lender a license to enter and occupy any of its premises, without charge, to exercise any of Lender's rights or remedies;

(g) (i) place a "hold" on any account maintained with the Lender and/or (ii) deliver a notice of exclusive control, any entitlement order, or other directions or instructions pursuant to any Control Agreement or similar agreements providing control of any Collateral (provided that such right pursuant to a Control Agreement shall terminate upon the Lender providing a notice of termination of exclusive control in accordance therewith);

(h) demand and receive possession of Debtor's Books; and

(i) exercise all rights and remedies available to the Lender under the Loan Documents, or at law or equity, including all remedies provided under the Code or applicable law (including disposal of the Collateral pursuant to the terms thereof).

The Lender acknowledges and agrees that, notwithstanding the language of any particular Control Agreement or similar agreement providing control of any Collateral, it shall not be entitled to deliver any notice of exclusive control, any entitlement order or any other direction or instruction pursuant thereto with respect to any Collateral Account or other Collateral unless an Event of Default shall have occurred and be continuing. The Lender shall endeavor to provide to Debtor a copy of any notice of exclusive control delivered by the Lender under a Control Agreement or similar agreement providing control of any Collateral, provided that the failure to timely provide any such copy shall not impact any right or remedy to which the Lender may be entitled (including, without limitation, any right to give a notice of exclusive control and exercise the rights as the result thereof).

**5.2 Remedies Cumulative.** The Lender's rights and remedies under this Security Agreement and all other agreements shall be cumulative. The Lender shall have all other rights and remedies not inconsistent herewith as provided under the Code, by law, or in equity. No exercise by the Lender of one right or remedy shall be deemed an election, and no waiver by the Lender of any Event of Default on the part of any Borrower shall be deemed a continuing waiver. No delay by the Lender shall constitute a waiver, election, or acquiescence by it.

**5.3 Demand; Protest.** Unless otherwise provided in the Loan Documents or required by applicable law, Debtor waives demand, protest, notice of protest, notice of default or dishonor, notice of payment and nonpayment, notice of any default, nonpayment at maturity, release, compromise, settlement, extension, or renewal of accounts, documents, instruments, chattel paper, and guarantees at any time held by the Lender on which Debtor may in any way be liable, other than as afforded herein.

**5.4 Power of Attorney.** Debtor hereby irrevocably appoints the Lender as its lawful attorney-in-fact, exercisable solely upon the occurrence and during the continuance of an Event of Default, to: (a) endorse Debtor's name on any checks or other forms of payment or security; (b) sign Debtor's name on any invoice or bill of lading for any Account or drafts against Account debtors; (c) settle and adjust disputes and claims about the Accounts directly with Account debtors, for amounts and on terms the Lender determines reasonable; (d) make, settle, and adjust all claims under Debtor's insurance policies; (e) pay, contest or settle any lien, charge, encumbrance, security interest, and adverse claim in or to the Collateral, or any judgment based thereon, or otherwise take any action to terminate or discharge the same; and (f) transfer the Collateral into the name of the Lender or a third party as the Code permits. Debtor shall perfect or continue the perfection of Lender's security interest in the Collateral regardless of whether an Event of Default has occurred until the Loan has been paid and satisfied in full and the Lender is under no further obligation to make Loans under the Loan Agreement. Lender's foregoing appointment as Debtor's attorney in fact, and all of rights and powers, coupled with an interest, upon and during an Event of Default, are irrevocable until the Loan has been fully repaid and performed and Lender's obligation to provide Loans terminates.

## **6 NOTICES**

All notices or demands by any party to this Security Agreement or any other related agreement must be in writing and be personally delivered or sent by an overnight delivery service, by certified mail, postage prepaid, return receipt requested, or by email or delivering it by hand at the addresses listed below. The Lender or Debtor may change its notice address by giving the other party written notice.

If to Debtor: MOTUS GI, LLC  
1301 East Broward Boulevard, 3<sup>rd</sup> Floor  
Fort Lauderdale, Florida 33301  
Email: andrew@motusgi.com  
For the attention of: Andrew Taylor

With a copy (which shall not constitute a notice) to:  
Lowenstein Sandler LLP  
One Lowenstein Drive  
Roseland, New Jersey 07068  
Email: sskolnick@lowenstein.com  
For the attention of: Steven Skolnick

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If to Lender: Kreos Capital VI (Expert Fund) LP  
47 Esplanade St. Helier, Jersey  
Attn: Mr. Raoul Stein  
E-mail: Raoul@Kreoscapital.com

With a copy (which shall not constitute a notice) to:  
Kadouch & Co., Law Offices  
11 Ha' Sadnaot St.  
Herzliya 4673300, Israel  
Attn: Emmanuel Kadouch, Adv.  
E-mail: Emmanuel@kadouchlaw.com

## **7 CHOICE OF LAW AND VENUE; JURY TRIAL WAIVER**

**DELAWARE LAW GOVERNS THIS SECURITY AGREEMENT WITHOUT REGARD TO PRINCIPLES OF CONFLICTS OF LAW. DEBTOR ACCEPTS JURISDICTION OF THE COURTS AND VENUE IN DELAWARE. NOTWITHSTANDING THE FOREGOING, THE LENDER SHALL HAVE THE RIGHT TO BRING ANY ACTION OR PROCEEDING AGAINST DEBTOR OR ITS PROPERTY IN THE COURTS OF ANY OTHER JURISDICTION WHICH THE LENDER DEEMS NECESSARY OR APPROPRIATE IN ORDER TO REALIZE ON THE COLLATERAL OR TO OTHERWISE ENFORCE LENDER'S RIGHTS AGAINST DEBTOR OR ITS PROPERTY, INCLUDING THE COURTS OF THE STATE OF NEW YORK. DEBTOR AND THE LENDER EACH WAIVE THEIR RIGHT TO A JURY TRIAL OF ANY CLAIM OR CAUSE OF ACTION ARISING OUT OF OR BASED UPON THIS SECURITY AGREEMENT, THE LOAN DOCUMENTS OR ANY CONTEMPLATED TRANSACTION, INCLUDING CONTRACT, TORT, BREACH OF DUTY AND ALL OTHER CLAIMS. THIS WAIVER IS A MATERIAL INDUCEMENT FOR BOTH PARTIES TO ENTER INTO THIS SECURITY AGREEMENT. EACH PARTY HAS REVIEWED THIS WAIVER WITH ITS COUNSEL.**

## **8 GENERAL PROVISIONS**

**8.1 Successors and Assigns.** This Security Agreement binds and is for the benefit of the successors and permitted assignees of each party. Debtor may not assign this Security Agreement or any rights under it without Lender's prior written consent which may be granted or withheld in Lender's discretion. The Lender shall have the right, without the consent of or notice to Debtor, to sell, transfer, negotiate, or grant participation in all or any part of, or any interest in, Lender's obligations, rights and benefits under this Security Agreement, all in accordance with Clause 14.4 of the Loan Agreement.

**8.2 Indemnification.** Debtor hereby indemnifies, defends and holds the Lender, and its directors, officers, employees and agents harmless against all losses or expenses incurred, or paid by the Lender consequential to enforcement of its rights in the Collateral pursuant to this Security Agreement (including reasonable attorneys' fees and expenses), except for losses caused solely by the gross negligence, fraud or willful misconduct of the Lender, or its directors, officers, employees or agents, all subject to the terms on Section 11 of the Loan Agreement.

**8.3 Right of Set-Off.** Debtor hereby grants to the Lender a lien, security interest and right of setoff as security to the Lender, whether now existing or hereafter arising upon and against all credits, collateral and property, now or hereafter in the possession, custody, safekeeping or control of the Lender or any entity under the control of the Lender or in transit to any of them. At any time after the occurrence and during the continuance of an Event of Default, without demand or notice, the Lender may set off the same or any part thereof and apply the same to any liability or obligation of the Borrowers then due and payable and regardless of the adequacy of any other collateral securing the Loan. ANY AND ALL RIGHTS TO REQUIRE THE LENDER TO EXERCISE ITS RIGHTS OR REMEDIES WITH RESPECT TO ANY OTHER COLLATERAL WHICH SECURES THE LIABILITIES, PRIOR TO EXERCISING ITS RIGHT OF SETOFF WITH RESPECT TO SUCH CREDITS OR OTHER PROPERTY OF THE DEBTOR, ARE HEREBY KNOWINGLY, VOLUNTARILY AND IRREVOCABLY WAIVED.

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**8.4 Severability of Provisions.** Each provision of this Security Agreement is severable from every other provision in determining the enforceability of any provision.

**8.5 Amendments in Writing; Integration.** All amendments to this Security Agreement must be in writing signed by the Lender and Debtor. This Security Agreement and the Loan Agreement represent the entire agreement about this subject matter, and supersede prior negotiations or agreements. All prior agreements, understandings, representations, warranties, and negotiations between the parties about the subject matter of this Security Agreement and the Loan Agreement and the other loan documents merge into this Security Agreement and the Loan Agreement.

**8.6 Counterparts.** This Security Agreement may be executed in any number of counterparts and by different parties on separate counterparts, each of which, when executed and delivered, are an original, and all taken together, constitute one Agreement.

**8.7 Survival.** All covenants, representations and warranties made in this Security Agreement continue in full force while the Loan remains outstanding. The obligation of Debtor in Section 8.2 above to indemnify the Lender shall survive until the statute of limitations with respect to such claim or cause of action shall have run.

**8.8 Security for Loans; Amendment of the Loan Agreement.** Upon and during the continuance of an Event of Default beyond any applicable notice and cure period, Lender may: (a) take and hold security for the payment of the Loan, and exchange, enforce, waive and release any such security; and (b) apply such security and direct the order or manner of sale thereof as the Lender in its sole discretion may determine.

**8.9 Debtor Waivers.** Debtor waives any right to require the Lender to (a) proceed against Debtor any other Obligor, any other guarantor or any other person; (b) proceed against or exhaust any security held from the Debtor or any other Obligor; (c) marshal any assets of the Debtor or any other Obligor; or (d) pursue any other remedy in Lender's power whatsoever. The Lender may, at its election, exercise or decline or fail to exercise any right or remedy it may have against the Debtor or any other Obligor or any security held by the Lender, including without limitation the right to foreclose upon any such security by judicial or non-judicial sale, without affecting or impairing in any

way the liability of Debtor hereunder. Debtor waives any defense arising by reason of any disability or other defense of the Debtor or any other Obligor or by reason of the cessation from any cause whatsoever of the liability of the Debtor or any other Obligor. Debtor waives any setoff, defense or counterclaim that Debtor or any other Obligor may have against the Lender. Debtor waives any defense arising out of the absence, impairment or loss of any right of reimbursement or subrogation or any other rights against the Debtor or any other Obligor. Until the Loan Agreement is terminated, Debtor shall not exercise any right of subrogation or reimbursement, contribution or other rights against any other Obligor, and, until the Loan Agreement is terminated, Debtor waives any right to enforce any remedy that the Debtor now has or may hereafter have against any other Obligor. Until the Loan Agreement is terminated, Debtor waives all rights to participate in any security now or hereafter held by the Lender. Debtor assumes the responsibility for being and keeping itself informed of the financial condition of the other Obligors and of all other circumstances bearing upon the risk of nonpayment of any indebtedness or nonperformance of any obligation of the other Obligors, warrants to the Lender that it will keep so informed, and agrees that absent a request for particular information by Debtor, the Lender shall have no duty to advise Debtor of information known to the Lender regarding such condition or any such circumstances.

**8.10 Insolvency.** If the Parent becomes insolvent or is adjudicated bankrupt or files a petition for reorganization, arrangement, composition or similar relief under any present or future provision of the United States Bankruptcy Code and/or the Israeli Bankruptcy Law, or if such a petition is filed against the Parent, and in any such proceeding some or all of any indebtedness or obligations under the Loan Agreement is terminated or rejected or any obligation of the Parent is modified or abrogated, or if the Parent's obligations are otherwise avoided for insolvency, bankruptcy or any similar reason, Debtor agrees that Debtor's liability hereunder shall not thereby be affected or modified and such liability shall continue in full force and effect as if no such action or proceeding had occurred. This Security Agreement shall continue to be effective or be reinstated, as the case may be, if any payment must be returned by the Lender upon the insolvency, bankruptcy or reorganization of the Parent or Debtor, any other person, or otherwise, as though such payment had not been made.

## **9 DEFINITIONS**

### **9.1 Definitions.** In this Security Agreement:

**"Accounts"** shall mean any "account", as such term is defined in section 9-102(a)(2) of the Code, now owned or hereafter acquired by the Debtor and, in any event, shall include, without limitation, all accounts receivable, book debts, and other forms of obligations now owned or hereafter received or acquired by or belonging or owing to the Debtor (including, without limitation, under any trade names, styles, or divisions thereof) whether arising out of goods sold or services rendered by the Debtor or from any other transaction, whether or not the same involves the sale of goods or services by the Debtor (including, without limitation, any such obligation that might be characterized as an account or contract right under the Code) and all of the Debtor's rights in, to, and under all purchase orders or receipts now owned or hereafter acquired by it for goods or services, and all of the Debtor's rights to any goods represented by any of the foregoing (including, without limitation, unpaid seller's rights of rescission, replevin, reclamation, and stoppage in transit, and rights to returned, reclaimed, or repossessed goods), and all moneys due or to become due to the Debtor under all contracts for the sale of goods or the performance of services or both by the Debtor (whether or not yet earned by performance on the part of the Debtor or in connection with any other transaction), now in existence or hereafter occurring, including, without limitation, the right to receive the proceeds of such purchase orders and contracts, and all collateral security and guaranties of any kind given by any person or entity with respect to any of the foregoing.

**"Code"** is the Uniform Commercial Code, as the same may, from time to time, be enacted and in effect in the State of Delaware; provided, that, to the extent that the Code is used to define any term herein or in any security documents and such term is defined differently in different Articles or Divisions of the Code, the definition of such term contained in the Code shall govern; provided further, that in the event that, by reason of mandatory provisions of law, any or all of the attachment, perfection, or priority of, or remedies with respect to, Lender's lien on any Collateral is governed by the Uniform Commercial Code in effect in a jurisdiction other than the State of Delaware, the term **"Code"** shall mean the Uniform Commercial Code as enacted and in effect in such other jurisdiction solely for purposes of the provisions thereof relating to such attachment, perfection, priority, or remedies and for purposes of definitions relating to such provisions.

**"Collateral"** means all of the rights, title and interest in and to the following: the Debtor's assets, Contract Rights or rights to payment of money, leases, license agreements, franchise agreements, Intellectual Property, Equipment and Inventory (including as set forth on **Schedule B** attached hereto), Goods, cash and cash equivalents, Deposit Accounts, Accounts, all certificates of deposit, Chattel Paper, Fixtures, Letter of Credit Rights (whether or not the letter of credit is evidenced by a writing), commercial tort claims, General Intangibles, documents, Instruments (including any promissory notes) and Investment Property (including without limitation all capital stock of subsidiaries of Debtor), supporting obligations and financial assets, whether now owned or hereafter acquired, wherever located. All Debtor's Books relating to the foregoing and any and all claims, rights and interests in any of the above and all substitutions for, additions, attachments, accessories, accessions and improvements to and replacements, products, proceeds and insurance proceeds of any or all of the foregoing. For the avoidance of doubt, the Collateral does not include any Immaterial Intellectual Property.

**"Control Agreement"** is any control agreement entered into among the depository institution at which Debtor or any Obligor maintains a Deposit Account or the securities intermediary or commodity intermediary at which Debtor or any Obligor maintains a Securities Account or a Commodity Account, Debtor, such Obligor, and Lender pursuant to which Lender obtains control (within the meaning of the Code) over such Deposit Account, Securities Account, or Commodity Account.

**"Debtor's Books"** are all Debtor's books and records including ledgers, records regarding Debtor's assets or liabilities, the Collateral, business operations or financial condition and all computer programs or storage or any equipment containing the information.

**"Intellectual Property"** is the "Intellectual Property" as defined in the Loan Agreement.

**"Collateral Account"** is any Deposit Account, Securities Account, or Commodity Account.

**"Deposit Account"** is any "deposit account" as defined in the Code with such additions to such term as may hereafter be made.

**"Commodity Account"** is any "commodity account" as defined in the Code with such additions to such term as may hereafter be made.

**"Securities Account"** is any "securities account" as defined in the Code with such additions to such term as may hereafter be made.

**"Loan"** refers to the loan under the Loan Agreement.

**"Loan Documents"** is the Loan Agreement, and all ancillary documents thereof.

**"Obligor"** is the Debtor or any Group Company (as defined in the Loan Agreement).

**"Proceeds"** shall mean "proceeds", as such term is defined in section 9-102(a)(64) of the Code and, in any event, shall include, without limitation, (i) any and all proceeds of any insurance, indemnity, warranty or guaranty payable to the Debtor from time to time with respect to any of the Collateral; (ii) any and all payments (in any form

whatsoever) made or due and payable to the Debtor from time to time in connection with any requisition, confiscation, condemnation, seizure, or forfeiture of all or any part of the Collateral by any governmental body, authority, bureau, or agency (or any person acting under color of governmental authority); and (iii) any and all other amounts from time to time paid or payable under or in connection with any of the Collateral.

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IN WITNESS WHEREOF, the parties hereto have caused this Security Agreement to be executed as a sealed instrument under the laws of the State of Delaware as of the date first above written.

DEBTOR:

**MOTUS GI, LLC.**

By: **Motus GI Holdings, Inc. its Sole Member**

By: /s/ Andrew Taylor

Name: Andrew Taylor

Title: Chief Financial Officer and Secretary

LENDER:

**KREOS CAPITAL VI (EXPERT FUND) LP**

By: /s/ Raoul Stein

Name: Raoul Stein

Title: Director

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**SCHEDULE A**

**Details of Collateral Accounts**

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**DEBENTURE - FIXED CHARGE**  
**UNLIMITED IN AMOUNT**  
**BETWEEN**  
**MOTUS GI MEDICAL TECHNOLOGIES LTD.**  
**as Company**  
**AND**  
**KREOS CAPITAL VI (EXPERT FUND) LP**  
**as Creditor**  
**DATED**  
**July 16, 2021**

**DEBENTURE – FIXED CHARGE**

**THIS DEBENTURE – FIXED CHARGE** is dated July 16, 2021 between:

1. **Motus GI Medical Technologies Ltd.**, a company organized under the laws of the State of Israel, with registered number 514188135 whose registered office is at 22 Keren ha-Yesod Street, Tirat Carmel, Israel (the “**Company**”).
2. **KREOS CAPITAL VI (EXPERT FUND) LP**, a limited partnership incorporated in Jersey under registered number 2770 whose registered office is at 47 Esplanade, St Helier, Jersey (the “**Creditor**”).

**WHEREAS:**

- (A) The Creditor has agreed to lend certain sums to the Company pursuant to that certain Agreement for the Provision of a Loan Facility of up to US\$ 12,000,000, dated July 16, 2021 (the “**Loan Agreement**”) by and among the (i) Creditor and (ii) the Company, Motus GI Holdings, Inc., the Company’s parent company (the “**Parent**”), and Motus GI, LLC, the Parent’s subsidiary (the “**US Subsidiary**”; the Parent and the US Subsidiary collectively referred to as the “**Co-Borrowers**”); and
- (B) In order to secure the full and punctual payment and performance when due of the Secured Liabilities the Company has agreed to (i) charge and pledge by way of first ranking fixed charge, various assets, except for the Permitted Security Interests (as defined below), in favour of the Creditor in accordance with the terms hereof; and (ii) charge and pledge by way of first ranking floating charge various assets, in favour of the Creditor in accordance with the terms of the Debenture – Floating Charge (as defined below).

**NOW THEREFORE**, the parties agree as follows:

**1. DEFINITIONS AND INTERPRETATION**

1.1 In this Debenture, the following terms shall have the following meanings:

<b>Business Day</b>	As defined in the Loan Agreement.
<b>Charged Assets</b>	Those assets of the Company charged, pledged or assigned by way of charge to the Creditor pursuant to Section 3 (Security).
<b>Debenture</b>	This Debenture – First Ranking Fixed Charge.
<b>Debenture Floating Charge</b>	Means the Debenture – First Ranking Floating Charge signed between the Company and the Creditor on July 16, 2021, in connection with the Loan Agreement, as may be amended from time to time.
<b>Indemnified Persons</b>	As defined in Section 12.
<b>Insurances</b>	Means: (a) all contracts and policies of insurance executed and/or issued from time to time in relation to the Charged Assets.; (b) all payments to the Company in relation to (a) above, and (c) all claims, rights and remedies of the Company arising from (a) and (b) above.
<b>Intellectual Property</b>	As defined in <b>Schedule 2</b> of this Debenture but expressly excluding Immaterial Intellectual Property.
<b>Creditor Floating Charge</b>	Means the first ranking floating charge created under the Debenture – Floating Charge.

## Ordinary Course of Business

To the extent it relates to Intellectual Property, includes any license agreement, any distribution agreement, any OEM or similar agreement, any manufacturing agreement, any joint development agreement, or any joint venture agreement in the context of any of the above, provided, however, that an agreement that constitutes an effective transfer, or includes a potentially effective transfer, of a significant part of the Intellectual Property of the Company will not be regarded as in the Ordinary Course of Business. By way of example, an exclusive, perpetual, worldwide license for a core technology of the Company or an OEM agreement according to which a company was given an exclusive right to use a core technology for all potential applications of that technology would not be regarded as in the Ordinary Course of Business. Any escrow agreement entered into as part of a transaction which is in the Ordinary Course of Business will be regarded as part of the Ordinary Course of Business provided that, upon the release of the escrow, the beneficiary of the escrow is entitled to use the technology of the Company only as may be necessary to fulfil the Company's undertakings under the main transaction.

## Permitted Security Interests

As defined in the Loan Agreement.

## Receiver

A receiver, trustee, administrator, administrative receiver, custodian, conservator, special manager or other similar official appointed by or on application of the Creditor, pursuant to the terms of this Debenture.

## Secured Liabilities

As defined in Section 2.

## Security Interest

Any mortgage, pledge, lien, hypothecation, assignment by way of security, security interest or other charge or encumbrance over, of or in the relevant property.

1.2 Words and defined terms denoting the singular number include the plural and vice versa and the use of any gender shall be applicable to all genders.

1.3 The paragraph headings are for the sake of convenience only and shall not affect the interpretation of this Debenture.

1.4 The recitals, schedules, appendices, annexes and exhibits hereto form an integral part of this Debenture.

1.5 Capitalized terms not defined herein shall have the meaning ascribed thereto in the Loan Agreement.

## 2. PURPOSE

### 2.1 Secured Liabilities

The Security Interests created by this Debenture are created to secure the full and punctual payment and performance of all the obligations of the Company and the Co-Borrowers pursuant to the Loan Agreement, or to any amendment thereof with all expenses and other amounts due or to become due from the Company and the Co-Borrowers under the terms of this Debenture including, without limitation, reasonable legal fees, fees and out-of-pocket costs of any Receiver and any other reasonable, necessary and actual costs incurred in realizing the Security Interests granted hereunder (all such amounts, the "**Secured Liabilities**").

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### 2.2 Prepayment

Except as expressly set forth in the Loan Agreement: (i) the Company and the Co-Borrowers shall not be entitled to discharge any amount of the Secured Liabilities prior to the agreed date for payment thereof; and (ii) neither the Company nor any third party having a right liable to be affected by the charges hereby created or the realisation thereof shall have any right under Section 13(b) of the Pledges Law, 5727-1967 or any other statutory provisions in substitution therefor.

## 3. SECURITY

### 3.1 Creation of Fixed Charge

As security for the full and punctual payment or performance when due (whether at stated maturity, acceleration or otherwise) of the Secured Liabilities by the Company and the Co-Borrowers, the Company hereby, absolutely and unconditionally, charges and pledges in favour of the Creditor by way of first ranking fixed charge and pledge:

- (a) the specific assets of the Company listed in Schedule 1 hereto; and
- (b) all intellectual property rights of the Company detailed in Schedule 2 attached hereto, but expressly excluding Immaterial Intellectual Property; with respect to intellectual property rights developed with funding from the IIA (as defined below), the fixed charge shall be subject to the approval of the IIA;
- (c) all funds received or owed to Company by its customers listed in Schedule 3, including any such funds in and to each outstanding account including without limitations the accounts specified in Schedule 3 (the "**Pledged Accounts**").
- (d) to the extent not included in the foregoing, all present and future rights to compensation, indemnity, insurance proceeds, warranty or guaranty accruing to the Company by reason of the loss of, damage to or expropriation of, or any other event or circumstance with respect to, such Charged Assets and all proceeds, products and benefits deriving from such Charged Assets (including, without limitation, those received upon any collection, exchange, sale or other disposition of such Charged Assets and any property into which such Charged Assets are converted, whether cash or non-cash) (Sections 3.1 (a), (b) and (c) collectively, the "**Charged Assets**").

It is hereby agreed and acknowledged that the description of the Charged Assets, including without limitations, the assets listed in Sections 3.1(a)(d) above, shall be amended and updated from time to time by the Company, in accordance with the provisions of the Loan Agreement.

The Company shall have the right to receive and use all payments pursuant to the Pledged Accounts, subject to, and as specifically permitted under, the terms and provisions of the Loan Agreement.

In addition, to the extent required by applicable law to create and perfect a first ranking fixed charge over the Charged Assets specified in paragraph 3.1(d) above, the Company also assigns such Charged Assets to the Creditor by way of first ranking fixed charge and pledge.

In particular, the Company hereby assigns to and in favour of the Creditor by way of first ranking fixed charge and pledge (and each of the following shall be deemed to be expressly included in paragraph 3.1(d) above):

- (i) all present and future rights, claims and remedies of the Company under and in respect of the Insurances and any monies paid or payable pursuant thereto whether held in or for the benefit of any trust or other account relative thereto or otherwise;
- (ii) all present and future rights, claims and remedies of the Company under and deriving from the Property Tax and Compensation Fund Law, 5721-1961 as in force from or at any relevant time, and under any other applicable law arising in connection with the Charged Assets;

- (iii) all present and future rights to compensation, indemnity, warranty or guaranty accruing to the Company by reason of the loss of, damage to or expropriation of, or any other event or circumstance with respect to, the Charged Assets.

With respect to insurance proceeds, so long as no Event of Default has occurred and is continuing, (i) the Company may commence, appear in, defend or prosecute any claim or action, and may adjust, compromise, settle and collect all claims and awards; provided however, that no settlements shall be made without the consent of Creditor which consent shall not be unreasonably withheld, conditioned or delayed, and (ii) all proceeds of insurance shall be made available to the Company to repair or restore the Charged Assets, as applicable.

Nothing in this Debenture in any way limits the Company from entering into any transactions with regard to its Intellectual Property in the Ordinary Course of Business and making any Permitted Transfers.

### 3.2 First Ranking

The Company specifically acknowledges that all of the Security Interests created by the Company under Section 3 (Security) of this Debenture shall rank in priority to any other Security Interests created by the Company subject to the Creditor Floating Charge and the Permitted Security Interests.

## 4. PRESERVATION OF SECURITY

### 4.1 Continuing Security

The Company declares and agrees that:

- (a) the Security Interests created by this Debenture shall remain in force as continuing security for the payment and discharge of the Secured Liabilities and shall remain in force notwithstanding any settlement of account or any other act, event or matter whatsoever, and, subject to Section 4.4, shall be fully released and discharged upon the full and final payment of the Secured Liabilities and subject to Section 4.4.
- (b) the Security Interests created and the powers conferred by this Debenture are in addition to, and are not in any way prejudiced or affected by, any other agreement between the Company and the Creditor; and
- (c) the Creditor will not be bound to enforce any other Security Interests before enforcing the Security Interests created by this Debenture.

### 4.2 Nature of Security Interests

All Security Interests that have been or may be created in favour of the Creditor for payment and performance of the Secured Liabilities shall be independent of one another.

For the avoidance of doubt, it is hereby clarified that this Debenture is in addition to the Debenture - Floating Charge (and in no manner in lieu thereof or replacement thereto), and each of this Debenture and the Debenture - Floating Charge shall independently serve as aforesaid to secure the Secured Liabilities in their entirety. Without derogating from the generality of the foregoing or from any other right of the Creditor, the Creditor shall have the right to act on this Debenture, on the Debenture - Floating Charge or on both, in each case in connection with the Security Interest created by each (including, without limitation, with respect to any and all assets, properties and rights subject to both this Debenture and the Debenture - Floating Charge); and no action or omission relating to any such Security Interest shall prevent or estop the Creditor from invoking such other Security Interest, at the same time or subsequently.

### 4.3 Liability of the Company: Security Interest Absolute

- (a) The Company is a principal debtor and the Charged Assets are a principal security for the Secured Liabilities and, without prejudice to the foregoing, none of the rights of the Creditor, the Security Interests created hereunder or the liabilities or obligations of the Company or any third party, shall be impaired or discharged by (without limitation):
  - (i) the Creditor releasing any of the Charged Assets or granting any time or any indulgence whatsoever to or making any settlement, composition or arrangement with any third party;
  - (ii) the Creditor asserting or pursuing, failing or neglecting to assert or pursue, or delaying in asserting or pursuing, or waiving, any of its rights or remedies against the Company or any third party arising under or by virtue of this Debenture or otherwise;
  - (iii) the Creditor making any variation, amendment or supplement to this Debenture;
  - (iv) any agreement between the Creditor and the Company or any third party or any other document or instrument from time to time entered into between the Company or any third party and the Creditor;
  - (v) any change in the time, manner, place of payment or any other term or condition of the Secured Liabilities, or any other amendment or waiver of or under any agreement between the Creditor and the Company, the Charged Assets or any document related thereto;
  - (vi) the non-perfection of any Security Interest or any release, waiver or amendment from any guaranty for all or part of the Secured Liabilities;

- (vii) the Creditor taking, accepting, varying, dealing with, enforcing, abstaining from enforcing, surrendering, exchanging or releasing any Security Interest in relation to the Company or any third party in such manner as any of them thinks fit, or claiming, proving for, accepting or transferring any payment in respect of the Secured Liabilities or the liabilities of any other third party in any composition by, or winding up of, any such party and/or any third party, or abstaining from so claiming, proving, accepting or transferring; or
  - (viii) to the fullest extent permitted by applicable law, any other circumstance that could otherwise constitute a defence to or discharge of the Company or any third party, other than the payment and performance in full of the Secured Liabilities.
- (b) Notwithstanding anything to the contrary contained in this Debenture, the Company will remain liable to observe and perform all of the conditions and obligations under the Loan Agreement relating to or constituting the Secured Liabilities or the Charged Assets and neither the Creditor nor any Receiver will be under any obligation or liability with respect to the Secured Liabilities or the Charged Assets by reason of or arising out of this Debenture. Neither the Creditor nor any Receiver will be required in any manner to perform or fulfil any of the obligations of the Company in respect of the Secured Liabilities or the Charged Assets, or to make any payment, or to make any enquiry as to the nature or sufficiency of any payment received by it, or to present or file any claim or take any action or to collect any amount or enforce any right or remedy hereunder.

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- (c) The exercise by the Creditor of any of the rights or remedies hereunder shall not release the Company from any of its liabilities or obligations under any agreement between the Creditor and the Company; for the avoidance of doubt, the application of the Charged Assets to satisfy part of the Secured Liabilities shall not release the Company from its obligation to pay and perform the Secured Liabilities in full.

#### 4.4 Avoidance of Payments

To the extent that the Company and/or subsidiaries of the Company or any third party on behalf of the Company makes a payment or payments to the Creditor, or the Creditor enforces any Security Interest or exercises any right of set-off and such payment or payments or the proceeds of such enforcement or set-off or any part thereof are subsequently avoided or set aside, declared to be fraudulent or preferential or required to be repaid or refunded or reduced by virtue of any applicable law relating to bankruptcy, insolvency, administration, receivership, liquidation or similar proceedings, the Secured Liabilities or any part thereof originally intended to be satisfied, and this Debenture and all Security Interests, rights and remedies therefor, shall be revived and continued in full force and effect as if such payment or payments had not been made or such enforcement or set-off had not occurred.

### 5. REPRESENTATIONS AND WARRANTIES

The Company hereby represents and warrants as follows as of the date hereof:

- 5.1 The Company is duly incorporated and validly existing under the laws of the State of Israel, with power and authority to own assets and to carry on its business as now being conducted.
- 5.2 It is duly and validly registered with the Israeli Registrar of Companies, with company number 514188135.
- 5.3 It has the power to enter into and perform, and has taken all necessary action to authorise the entry into, performance and delivery of, this Debenture and the transactions contemplated hereby.
- 5.4 All corporate actions on the part of the Company, its directors, and its shareholders necessary for the authorisation, execution and delivery of the Debenture and the performance of all of its obligations hereunder have been taken.
- 5.5 This Debenture constitutes its legal, valid and binding obligation enforceable in accordance with its terms, subject to mandatory bankruptcy, insolvency, fraudulent conveyance and reorganisation laws.
- 5.6 All material authorisations required in connection with the entry into, performance, validity and enforceability of this Debenture and the transactions contemplated hereby have been obtained or effected and are (and with respect to registration, shall be) in full force and effect and no steps have been taken to revoke or cancel any authorisation obtained or effected. The Company undertakes to file the Security Interests created hereby with the Israeli Companies Registrar and with the Israeli Patent Office (with respect to patents registered in Israel) within 21 days as provided under Israeli law.
- 5.7 The Security Interests created hereby constitute a legal, valid and binding, first ranking fixed charge over the Charged Assets (subject to the Permitted Security Interest), enforceable in accordance with the terms hereof. This Debenture confers the Security Interests it purports to confer over all of the Charged Assets and those Security Interests:

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- (a) are not subject to any senior, pari passu, junior or subordinated Security Interests (other than the Permitted Security Interests); and
- (b) are not liable to avoidance, due to (i) bankruptcy, winding-up, creditors' arrangement or any other similar insolvency proceedings for the reorganisation of the affairs of the Company or (ii) any other similar act or circumstance of the Company on the date of execution of this Debenture.

5.8 The Company has good and marketable title to the Charged Assets, free and clear of any Security Interests, except for the Creditor Floating Charge and the Permitted Security Interests. With the exception of the above and to the best of the Company's knowledge, the Charged Assets are not affected by any restriction or condition relating to the transfer of ownership therein or to the mortgage, pledge or charge thereof, either at law or under any agreement whatsoever.

5.9 The Charged Assets that are tangible assets are in all material respects in good and substantial repair and condition ordinary wear and tear excepted.

### 6. UNDERTAKINGS

The Company hereby undertakes as follows:

- 6.1 It shall not sell, convey, transfer, grant or lease or otherwise dispose of (or agree to do any of the foregoing at any future time) ("**Dispose**") any Charged Asset, except for the Permitted Transfers.

- 6.2 It shall not create or permit to subsist any Security Interest on (or agree to do any of the foregoing at any future time) any of the Charged Assets (whether ranking in priority or parity to the Security Interests created hereby), except for the Permitted Security Interests.
- 6.3 It shall defend the Charged Assets or cause the Charged Assets to be defended against, and shall take, at its expense, any action necessary to remove any Security Interest over the Charged Assets (other than the Permitted Security Interests), and shall defend the right, title and interest of the Creditor in and to any Charged Asset against the claims and demands of all other persons.
- 6.4 It shall keep the Charged Assets in good working order and condition (normal wear and tear excepted). The Company shall repair any damage or defect which may occur to the Charged Assets, in whole or in part, as the result of use or for any other reason whatsoever (normal wear and tear excepted). Without derogating from its obligations hereunder, the Company shall notify the Creditor immediately of any material damage or defect to the Charged Assets or any part thereof.
- 6.5 It shall observe and perform, in all material respects, all covenants and obligations of the Company in connection with each Pledged Accounts, and any of the related agreements to which the Company is a party or by which it is bound;
- 6.6 It will not knowingly take any action which is likely to prejudice or damage the Charged Assets or the enforceability of the Security Interests created hereunder.
- 6.7 It shall deposit with the Creditor all certificates and other documents of title or evidence of ownership in the Charged Assets and all ancillary documents relating to or affecting the Charged Assets as the Creditor may reasonably specify from time to time.
- 6.8 It will allow the Creditor or the Creditor's representatives at all reasonable times, upon the provision of reasonable notice, to inspect the condition of the Charged Assets wherever the same may be.

The Company shall keep the Charged Assets insured at all times and shall comply with the terms of such insurance policies.

- 6.9 The Company shall, forthwith upon the Creditor's first demand, furnish the Creditor with any licence, confirmation, certificate, receipt or other document which, in the reasonable opinion of the Creditor, is required or necessary for purpose of proof of compliance by the Company with its obligations under this Section 6.
- 6.10 Without derogating from the rights of the Creditor, the Company shall notify the Creditor of any default under this Debenture (and the steps, if any, being taken to remedy it) promptly upon it becoming aware of the occurrence thereof. In particular, the Company shall:
- (a) notify the Creditor immediately of the occurrence of any seizure, requisition, expropriation or forfeiture of the Charged Assets or any part thereof;
  - (b) notify the Creditor immediately of the imposition of any attachment or the issue of any execution proceedings or of any application for the appointment of a receiver, trustee, administrator, administrative receiver, custodian, conservator, special manager or other similar official (whether interim or permanent) over or with respect to the Charged Assets or any part thereof and shall immediately notify the authorities which levied such attachment or issued such execution proceedings or received the application for the appointment of such receiver, trustee, administrator, administrative receiver, custodian, conservator, special manager or other similar official and any third party who initiated or applied for such action, of this Debenture in favour of the Creditor, and forthwith to take, at the expense of the Company, all steps necessary for the discharge of such attachment, execution proceedings or appointment, as the case may be.
- 6.11 The Company shall, forthwith following the execution of this Debenture, register the Security Interests created by this Debenture with the Israeli Registrar of Companies, and with the Israeli Patent Office (with respect to Intellectual Property registered in Israel), and take any other necessary registry and file such registration within 21 days from the date hereof and shall deliver to the Creditor original certificates of registration of such Security Interests.
- 6.12 The Company shall, forthwith following the execution of this Debenture, deliver to the Creditor, Notices of Assignment in the form of Schedule 4 and Schedule 6, duly executed by the Company or on its behalf and addressed, in the case of notices in the form of Schedule 4, to each of the insurers liable on the Insurances and, in the case of the notice in the form of Schedule 6, to the relevant governmental agency, and shall use all reasonable endeavours to ensure that the said insurers and governmental agency execute an acknowledgement of receipt of every such Notice of Assignment in the form of Schedule 5 and Schedule 7 respectively.
- 6.13 For the avoidance of doubt, and notwithstanding anything to the contrary herein, it is hereby clarified that with respect to any and all of the assets, properties and rights of the Company which are, or which may in the future be, subject to the charge and pledge under the Debenture – Floating Charge, the Company is and shall be subject to the terms, conditions, limitations and restrictions contained in the Debenture – Floating Charge in addition to those contained herein.

## 7. RIGHTS OF THE CREDITOR

### 7.1 Creditor's Right to Perform

Without derogating from the rights of the Creditor to realize the Security Interests granted hereunder, if the Company for any reason whatsoever fails to duly and punctually observe or perform or comply with any of its obligations under this Debenture, including under Section 6, the Creditor shall, after giving five (5) Business Days written notice to the Company, have the power, on behalf of or in the name of the Company or otherwise, to perform the obligations and to take any steps which the Creditor may, in its absolute discretion, consider appropriate with a view to remedying, or mitigating the consequences of the failure, but without in any way becoming liable therefor and provided that the exercise of this power, or the failure to exercise it, shall in no circumstances prejudice the Creditor's rights hereunder.

### 7.2 Set-Off

The Creditor may set off any sum, in the Contractual Currency, as the case may be, due or owing to the Company from the Creditor in any account, manner or circumstance whatsoever, against the Secured Liabilities, in whole or in part. In no event and under no circumstances may the Company set off any sum that may be due or owing to the Company from the Creditor in any account, manner or circumstance whatsoever, against the Secured Liabilities, in whole or in part.

## 8. DEFAULT AND ENFORCEMENT

## 8.1 Events of Default

The occurrence of any of the following events shall constitute an Event of Default:

- (a) any event of default which constitutes an Event of Default as defined in the Loan Agreement and/or the other Security Documents;
- (b) intentionally omitted;
- (c) the Company breaches or fails to comply with any provision of this Debenture or any other agreement between the Creditor and the Company;
- (d) any Event of Default under the Debenture – Floating Charge.

## 8.2 Creditor's Powers

- (a) Upon and at any time after the occurrence of an Event of Default, the Creditor shall be entitled to declare any or all of the Secured Liabilities immediately due and payable.
- (b) Upon and at any time after the occurrence of an Event of Default the Creditor shall also be entitled to take all such steps as it sees fit to collect the Secured Liabilities from the Company and, in addition thereto, without prejudice to any and all of its other rights, to realise the Charged Assets, whether by the application for the appointment of a Receiver or whether by any other method the Creditor shall see fit, subject to applicable law.
- (c) The Creditor shall be entitled, in any proceedings concerning the bankruptcy, liquidation, winding up or receivership (or similar proceedings) of the Company, to:
  - (i) demand, claim, collect and enforce and prove the Secured Liabilities and give acquittance thereunder;
  - (ii) file any claims and proofs, give receipts and take all such proceedings and do all such things as the Creditor sees fit to recover the Secured Liabilities; and
  - (iii) receive all distributions on and payments with respect to the Secured Liabilities.
- (d) Upon and at any time after the occurrence of an Event of Default the Creditor shall have all powers that it may, in its full discretion, determine to be desirable or necessary to preserve the Charged Assets and the Security Interests created hereby and to take all such reasonable steps for such purpose at the Company's expense subject to applicable law.

## 8.3 Receiver

- (a) The Receiver shall have all powers conferred by applicable law, including, without limitation, the power:
  - (i) to receive into his hands the Charged Assets and to take possession thereof;
  - (ii) to require the Company to deliver or otherwise make available such of the Charged Assets as the Receiver may demand, and without the consent of the Company, enter into any premises of the Company or any place where the Charged Assets are located and take possession of any of the Charged Assets;
  - (iii) to manage the Company's business or participate in the management thereof as he may see fit;
  - (iv) to sell or agree to the sale of the Charged Assets, in whole or in part, or to transfer the same in any other manner upon such conditions as he may see fit and to Dispose any of the Charged Assets (and such power shall include (to the extent necessary) a non-exclusive license of the Company to use any Intellectual Property required in order to use and operate any of the Charged Assets and in particular the Company's inventory);
  - (v) to exercise any right charged or pledged hereunder in the same manner in which the Company was entitled to exercise such right in accordance with the terms of Section 20 of the Pledges Law, 5727-1967;
  - (vi) to employ accountants, lawyers, architects, surveyors, engineers, quantity surveyors, contractors, builders, workmen and others and to purchase or hire materials, tools, equipment or supplies;
  - (vii) to call up any of the Company's uncalled share capital;
  - (viii) to do any other act or thing which the Receiver considers to be incidental or conducive to the exercise of any other right exercisable by him; and
  - (ix) to make any other arrangement with respect to the Charged Assets or any part thereof as he may see fit;
- (b) Should the payment date of the Secured Liabilities or any part thereof not yet have fallen due at the time of the sale of the Charged Assets, or the Secured Liabilities be due to the Creditor or Receiver on a contingent basis only, then the Creditor or Receiver shall be entitled to recover out of the proceeds of the sale an amount sufficient to cover the Secured Liabilities (or such part thereof) and the amount so recovered and yet to be appropriated to the discharge of the amounts due shall be charged to the Creditor or Receiver as security for, and be held by the Creditor or Receiver until the discharge in full of, the Secured Liabilities.
- (c) The Receiver will be the agent of the Company and the Company alone shall be responsible for the acts and omissions of the Receiver and for the Receiver's remuneration. In no event shall the Creditor be responsible for the acts and omissions of the Receiver or for the Receiver's remuneration.

## 9. DISTRIBUTION OF PROCEEDS

All moneys and other assets arising from the exercise of the powers of the Receiver or the Creditor or otherwise received by the Creditor or the Receiver from the realisation of any Charged Asset shall be applied as follows:

- (a) in payment of the reasonable out-of-pocket expenses incurred as a result of such realisation (including the appointment and remuneration of the Receiver);
- (b) in payment of all other reasonable out-of-pocket expenses, accrued interest and default interest (if any), linkage differentials and any other amounts due and payable by the Company to the Creditor under the Loan Agreement and which have not been paid; and
- (c) in payment of all principal sums due and payable by the Company to the Creditor and which have not been paid.

## 10. FURTHER ACTION

The Company further covenants with the Creditor from time to time upon reasonable demand to execute, at the Company's own cost and within reasonable time, any document or do any act or thing which:

- (a) in the reasonable determination of the Creditor is necessary to create, perfect, register or give effect to any pledge, charge, assignment or Security Interest created or intended to be created by this Debenture;
- (b) in the reasonable determination of the Creditor is necessary to preserve or protect any of the rights of the Creditor; or
- (c) the Creditor or the Receiver may reasonably specify with a view to facilitating the exercise, or the proposed exercise, of any of their powers or the protection, management or realisation of the Charged Assets upon the occurrence and during the continuance of an Event of Default.

failing which the Creditor may, and the Company hereby appoints the Creditor as its attorney-in-fact to, execute, at the Company's reasonable expense, any such document or do any such act or thing, in the name and on behalf of the Company.

## 11. PROTECTION OF CREDITOR AND RECEIVER

- (a) Other than with respect to fraud, wilful misconduct and gross negligence, or any action in breach of this Debenture, neither the Creditor nor the Receiver, nor any of their respective agents, managers, officers, directors, employees, delegates, and advisers shall be liable for any claim, demand, liability, loss, damage, cost or expense which arises out of the exercise or the attempted or purported exercise or the failure to exercise any of their respective rights, powers and discretions under this Debenture.
- (b) Neither the Creditor nor any Receiver, nor any of their respective agents, managers, officers, directors, employees, delegates, and advisers shall be under any duty to exercise any of their respective rights, powers and discretions under this Debenture.
- (c) To the extent permitted by applicable law, the Company hereby waives any requirements, except as otherwise required by this Debenture, with respect to notice, form or the terms of the exercise by the Creditor, the Receiver, or any of their respective agents, managers, officers, directors, employees, delegates, and advisers of their respective rights, powers and discretions under this Debenture.

## 12. INDEMNITY

12.1 The Company shall forthwith on demand indemnify each of the Creditor and the Receiver (as well as any subsidiaries or affiliates of the Creditor or the Receiver) and their respective officers, directors, agents, managers, servants and employees (the "**Indemnified Persons**") against any loss, expense or liability incurred as a consequence of (except to the extent that any of the following arise as a result of the Indemnified Persons' fraud, wilful misconduct and gross negligence):

- (a) anything done or purported to be done by or on behalf of the Creditor or the Receiver under this Debenture or any other document as a result of any failure by the Company to comply with its obligations hereunder;
- (b) any payment in respect of the Secured Liabilities (whether made by the Company or a third person) being impaired or declared void for any reason whatsoever;
- (c) the exercise, or attempted or purported exercise, or the consideration of the exercise, by or on behalf of the Creditor or the Receiver of any of the rights or powers of the Creditor or of the Receiver or any other action taken by or on behalf of the Creditor or the Receiver with a view to or in connection with the recovery by the Creditor or Receiver of the Secured Liabilities from the Company or any other person; or
- (d) the carrying out of any other lawful act or matter which the Creditor or the Receiver or any other person on behalf of either of them may reasonably consider to be necessary for the preservation of the Charged Assets.

12.2 Intentionally Omitted.

## 13. COSTS AND EXPENSES

13.1 The Company shall pay all filing fees payable in respect of this Debenture.

13.2 All the actual fees, reasonable out-of-pocket costs and expenses incurred by the Creditor or any Receiver in connection with the enforcement of this Debenture and realization of the Charged Assets shall be paid by the Company to the Creditor or any Receiver, as applicable, upon first demand and shall form part of the Secured Liabilities.

## 14. ASSIGNMENT

14.1 This Debenture shall be binding upon and inure to the benefit of each party hereto and its permitted successors and assigns.

14.2 The Company may not assign or transfer all or any part of its rights and/or obligations under this Debenture.

14.3 The Creditor and all those claiming under it shall be entitled, at all times, to assign this Debenture together with the Loan Agreement to any third party.

## 15. MISCELLANEOUS

### 15.1 Communications

All notices or other communications hereunder shall be in writing and shall be given in person, by registered mail (registered international air mail if mailed internationally), by an overnight courier service which obtains a receipt to evidence delivery, by email (provided that no notification of failure was received) or by facsimile transmission (provided that written confirmation of receipt is provided) with a copy, addressed as set forth below:

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If to the Company:

Motus GI Medical Technologies Ltd.  
22 Keren ha-Yesod Street, Tirat Carmel, Israel Attn: Andrew Taylor  
E-mail: [andrew@motusgi.com](mailto:andrew@motusgi.com)

With a copy (which shall constitute a notice) to:  
Lowenstein Sandler LLP  
One Lowenstein Drive  
Roseland, New Jersey 07068  
Attn: Steven Skolnick  
Email: [sskolnick@lowenstein.com](mailto:sskolnick@lowenstein.com)

If to the Creditor:

Kreos Capital VI (Expert Fund) LP  
47 Esplanade, St. Helier, Jersey  
Fax: +44 1534 889 884  
Attn: Raoul Stein

With a copy (which shall not constitute a notice) to:  
Kadouch & Co, Law Offices  
11 Ha'Sadna'ot Street  
P.O.B. 12695 Herzliya 4673300, Israel  
Fax: +972 9 952 5454  
Email: [Emmanuel@kadouchlaw.com](mailto:Emmanuel@kadouchlaw.com)  
Attn: Emmanuel Kadouch, Adv.

or such other address as any party may designate to the other in accordance with the aforesaid procedure. All communications delivered in person or by courier service shall be deemed to have been given upon delivery, those given by email shall be deemed given on the business day following transmission, those given by facsimile transmission shall be deemed given on the business day following transmission with confirmed answer back, and all notices and other communications sent by registered mail (or air mail if the posting is international) shall be deemed given ten (10) days after posting.

### 15.2 Delays or Omissions; Waiver

The rights of the Creditor may be waived only in writing and specifically; the conduct of the Creditor shall not be deemed a waiver of any of its rights pursuant to this Debenture and/or as a waiver or consent on its part as to any breach or failure to meet any of the terms of this Debenture or as an amendment hereto. A waiver by the Creditor in respect of a breach by the Company of its obligations shall not be construed as a justification or excuse for a further breach of its obligations.

No delay or omission to exercise any right, power, or remedy accruing to the Creditor upon any breach or default by the Company shall impair any such right or remedy nor shall it be construed to be a waiver of any such breach or default, or any acquiescence therein or in any similar breach or default thereafter occurring.

The rights of the Creditor hereunder may be exercised as often as necessary and are cumulative and not exclusive of its rights under applicable law.

### 15.3 Amendments

Any term of this Debenture may be amended or modified only by a written document signed by the Company and the Creditor.

### 15.4 Realization of IIA Intellectual Property

It is hereby agreed that:

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15.4.1 the Creditor acknowledges and understands that the Company is subject to the provisions of the Law for the Encouragement of Research and Development and Technological Innovation in Industry Law 5744-1984 - as amended from time to time and/or such other law as will be legislated in lieu thereof, including the regulations, directives, procedures and rules that have been or will be promulgated thereunder and/or by virtue thereof, including without limitation, Benefit Track Number 1 of the Israeli National Authority for Technological Innovation (the "IIA"), and other regulations, directives, guidelines, rules, as issued from time to time, by the IIA and the IIA Committee (collectively, the "IIA Regulations") and the Creditor is aware of the Company's obligation to comply with the IIA Regulations, including, but not limited to, the payment of royalties with respect to the financing amount which the Company received from the IIA and the prohibition on transferring any of the Company's knowhow (including by way of manufacturing or rights to manufacture) outside of Israel);

15.4.2 in light of the above, and as required by the IIA Regulations, notwithstanding anything to contrary herein, in the Loan Agreement, this Debenture or the Debenture Floating Charge dated as of the date hereof by and between Creditor and the Company ("**Debenture Floating Charge**"), with respect to the IIA Funded Know-How (as such term is defined below), the coming into effect of both this Debenture and the Debenture Floating Charge is subject and conditioned upon the receipt of the approval of the IIA (the "**IIA Approval**");

15.4.3 the Creditor shall sign any customary IIA documentation that may be required or desired with respect to the this Debenture Floating Charge and the Creditor Floating Charge; and

15.4.4 it is further clarified that the documents which will be filed with the Israeli Companies Registrar and with the Israeli Patent Office (with respect to patents registered in Israel) with respect to this Debenture and the Debenture Floating Charge shall include the condition set forth in Subsection 15.4.2 above regarding the IIA Approval.

As used herein, the term "IIA Funded Know-How" shall mean all of the Company's know-how resulting from research and development according to an IIA-approved plan, not being the product developed within the framework of such approved plan, and any right deriving therefrom.

15.5 Entire Agreement

This Debenture together with the Debenture Floating Charge, and the Loan Agreement, all as may be amended and/or supplemented from time to time, contain the entire understanding of the parties with respect to their subject matter and all prior negotiations, discussions, agreements, commitments and understandings between them with respect thereto not expressly contained herein shall be null and void in their entirety, effective immediately with no further action required.

15.6 Severability

If a provision of this Debenture is or becomes illegal, invalid or unenforceable in any jurisdiction, that shall not affect the validity or enforceability in that jurisdiction of any other provision hereof or the validity or enforceability in other jurisdictions of that or any other provision hereof.

Where provisions of any applicable law resulting in such illegality, invalidity or unenforceability may be waived, they are hereby waived by each party to the full extent permitted so that this Debenture shall be deemed valid and binding agreements, in each case enforceable in accordance with its terms.

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15.7 Counterparts, Facsimile Signatures

This Debenture may be executed in any number of counterparts, and this has the same effect as if the signatures on the counterparts were on a single copy of the Debenture. A signed Debenture received by a party hereto via facsimile, email (or scanned and sent by other electronic means) will be deemed an original, and binding upon the party who signed it.

15.8 Governing Law and Venue

This Debenture shall be governed by and construed in accordance with the laws of the State of New York, without giving effect to the principles thereof relating to conflict of laws. The Company and the Creditor, each irrevocably submits to the jurisdiction of the courts of the State of New York located in New York County and the United States District Court for the Southern District of New York for the purpose of any suit, action, dispute proceeding or judgment relating to or arising out of this Debenture. Notwithstanding the aforementioned, the enforcement of this Debenture in the State of Israel shall be subject to the applicable mandatory provisions of the laws of the State of Israel.

15.9 Further Actions

Each of the parties hereto shall perform such further acts and execute such further documents as may reasonably be necessary to carry out and give full effect to the provisions of this Debenture and the intentions of the parties as reflected thereby.

15.10 No Third-Party Beneficiaries

Nothing in this Debenture shall create or confer upon any person or entity, other than the parties hereto or their respective successors and permitted assigns, any rights, remedies, obligations or liabilities, except as expressly provided herein.

15.11 Value Added Tax ("VAT")

To the extent that any amount payable under this Debenture is subject to VAT by law, the party paying such amount shall pay the VAT against receipt of a duly issued VAT invoice.

15.12 Translation of This Debenture.

To the extent required, this Debenture may be translated into Hebrew for the sole purpose of the registration and filing of this Debenture with the Israeli Registrar of Companies and/or any other relevant Israeli official registration. Notwithstanding the aforesaid, the executed English version of this Debenture shall prevail and supersede for all purposes and for all respects, in the event of any discrepancy or inconsistency between the English version and the translation.

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[Signature Page of Debenture-- Fixed Charge]

IN WITNESS WHEREOF this Debenture has been executed by the Parties, on the day and year first above written.

*/s/ Andrew Taylor*

**MOTUS GI MEDICAL TECHNOLOGIES LTD.**

By: Andrew Taylor  
Title: Authorized Officer

*/s/ Raoul Stein*

**KREOS CAPITAL VI (EXPERT FUND) LP**

By: Raoul Stein  
Title: General Partner

**SCHEDULE 1****List of Equipment****SCHEDULE 2  
Intellectual Property****SCHEDULE 3  
Pledged Accounts****A. List of Customers****B. List of Accounts Receivables****Schedule 4  
Form of Notice of Assignment**To: **[Insurer]**

Date: [ ]

Dear Sirs,

We hereby give you notice (the "Notice") that we have assigned by way of security (the "Assignment") all of our right, title and interest in and to **[insurance policy no. \_\_\_\_\_ and the proceeds thereof]** (the "Relevant Documents") to Kreos Capital VI (Expert Fund) LP (the "Creditor"), pursuant to a Debenture entered into by us in favour of the Creditor dated the date hereof, in relation to the Equipment as set out in the attached Appendix.

Notwithstanding the Assignment, we remain liable to perform all our obligations under the Relevant Documents, if any, and the Creditor will have no liability in respect of those obligations.

We hereby irrevocably instruct and authorise you to:

- (i) make all payments under or arising from the Relevant Documents to the following account with the Creditor (or such other account as the Creditor may notify you in writing):
  - Name:
  - Number:
  - Branch:
- (ii) disclose to the Creditor without any reference to or further authority from us and without any enquiry by you as to the justification for such disclosure, such information relating to the Relevant Documents as the Creditor may at any time and from time to time request, to the extent we were entitled to request such information pursuant to the terms of the Relevant Documents;
- (iii) comply with the terms of any written notice or instructions in any way relating to, or purporting to relate to, the Assignment, the sums payable to us from time to time in respect of the Relevant Document or the debts represented thereby which you receive at any time from the Creditor in respect of the Relevant Document without any reference to or further authority from us and without any enquiry by you as to the justification for or validity of such notice or instruction, to the extent we were entitled to issue such instruction or notice pursuant to the terms of the Relevant Document; and
- (iv) send copies of all certificates, notices, documents and other information supplied to us in relation to the Relevant Document to the Creditor.

Please also note that these instructions are not to be revoked or amended without the prior written consent of the Creditor.

This letter shall be governed by and construed in accordance with Israeli law.

Yours faithfully,  
**Motus GI Medical Technologies Ltd.**

**SCHEDULE 5**

**Acknowledgement of assignment of Insurances**

To: (1) Kreos Capital VI (Expert Fund) LP

(2) Motus GI Medical Technologies Ltd.

[Date]

Dear Sirs,

We acknowledge receipt of the attached notice of assignment (the "Notice") and we irrevocably and unconditionally consent to the assignment set out in it and we undertake to be bound by its terms.

We confirm that we have not received notice of any other assignment of the Relevant Document. This Acknowledgement will be governed by and construed in accordance with Israeli law.

\_\_\_\_\_  
For and on behalf of  
\_\_\_\_\_

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**SCHEDULE 6**

**Notice of assignment of Compensation Proceeds**

To: [            ]

[Date]

**Re: The equipment set out in the attached schedule (the "Equipment")**

We hereby give you notice (the "Notice") that we have assigned by way of security (the "Assignment") to Kreos Capital VI (Expert Fund) LP (the "Creditor"), all of our right, title and interest, present and future, to all amounts that are payable under the Property Tax and Compensation Fund Law, 5721-1961, and under any other applicable law, arising in connection with the Equipment ("Compensation Proceeds").

Please acknowledge that you have received this Notice by signing and returning to each of the Creditor and ourselves a copy of the attached Acknowledgement.

This Notice will be governed by and construed in accordance with Israeli law.

\_\_\_\_\_  
For and on behalf of  
Motus GI Medical Technologies Ltd.

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**Schedule 7**

**Acknowledgement of assignment of Compensation Proceeds**

**Re: The equipment set out in the attached schedule (the "Equipment")**

To:

(1) Kreos Capital VI (Expert Fund) LP

(2) Motus GI Medical Technologies Ltd.

[Date]

Dear Sirs,

We acknowledge receipt of the attached notice of assignment (the "Notice") and we irrevocably and unconditionally consent to the assignment set out in it and we undertake to be bound by its terms.

We confirm that we have not received notice of any other assignment of the Compensation Proceeds.

This Acknowledgement will be governed by and construed in accordance with Israeli law.

\_\_\_\_\_  
For and on behalf of  
[            ]



**DEBENTURE FLOATING CHARGE**  
**UNLIMITED IN AMOUNT**  
**BETWEEN**  
**MOTUS GI MEDICAL TECHNOLOGIES LTD.**  
**as Company**  
**AND**  
**KREOS CAPITAL VI (EXPERT FUND) LP**  
**as Creditor**  
**DATED**  
**July 16, 2021**

**DEBENTURE – FLOATING CHARGE**

**THIS DEBENTURE – FLOATING CHARGE** is dated July 16, 2021 between:

1. **Motus GI Medical Technologies Ltd.**, a company organized under the laws of the State of Israel, with registered number 514188135 whose registered office is at 22 Keren ha-Yesod Street, Tirat Carmel, Israel (the "**Company**").
2. **KREOS CAPITAL VI (EXPERT FUND) LP**, a limited partnership incorporated in Jersey under registered number 2770 whose registered office is at 47 Esplanade, St Helier, Jersey (the "**Creditor**").

**WHEREAS:**

- (A) The Creditor has agreed to lend certain sums to the Company pursuant to that certain Agreement for the Provision of a Loan Facility of up to US\$ 12,000,000, dated July 16, 2021 (the "Loan Agreement") by and among the (i) Creditor and (ii) the Company, Motus GI Holding, Inc., the Company's parent company (the "Parent"), and Motus GI, LLC, the Parent's subsidiary (the "US Subsidiary"; the Parent and the US Subsidiary collectively referred to as the "Co-Borrowers"); and
- (B) In order to secure the full and punctual payment and performance when due of the Secured Liabilities the Company has agreed to (i) charge and pledge by way of first ranking floating charge all of the Company's assets except for any assets that are subject to the Debenture – Fixed Charge and subject to the Permitted Security Interests (as defined below) in favour of the Creditor in accordance with the terms hereof; and (ii) charge and pledge, by way of first ranking fixed charge various assets except for the Permitted Security Interests, in favour of the Creditor in accordance with the terms of the Debenture – Fixed Charge (as defined below).

**NOW THEREFORE**, the parties agree as follows:

**1. DEFINITIONS AND INTERPRETATION**

1.1 In this Debenture, the following terms shall have the following meanings:

<b>Business Day</b>	As defined in the Loan Agreement.
<b>Charged Assets</b>	Those assets of the Company charged, pledged or assigned by way of charge to the Creditor pursuant to Section 3 (Security).
<b>Debenture</b>	This Debenture – First Ranking Floating Charge.
<b>Debenture Fixed Charge</b>	Means the Debenture – First Ranking Fixed Charge signed between the Company and the Creditor on July 16, 2021, in connection with the Loan Agreement, as may be amended from time to time.
<b>Indemnified Persons</b>	As defined in Section 12.
<b>Insurances</b>	Means: <ul style="list-style-type: none"> <li>(a) all contracts and policies of insurance executed and/or issued from time to time in relation to the Charged Assets;</li> <li>(b) all payments to the Company in relation to (a) above, and</li> <li>(c) all claims, rights and remedies of the Company arising from (a) and (b) above.</li> </ul>

<b>Intellectual Property</b>	As defined in <u>Schedule 1</u> of this Debenture.
<b>Creditor Fixed Charge</b>	Means the first ranking fixed charge created under the Debenture - Fixed Charge.
<b>Loan Agreement</b>	As defined in the First Recital.

**Ordinary Course of Business**

To the extent it relates to Intellectual Property, includes any license agreement, any distribution agreement, any OEM or similar agreement, any manufacturing agreement, any joint development agreement, or any joint venture agreement in the context of any of the above, provided, however, that an agreement that constitutes an effective transfer, or includes a potentially effective transfer, of a significant part of the Intellectual Property of the Company will not be regarded as in the Ordinary Course of Business. By way of example, an exclusive, perpetual, worldwide license for a core technology of the Company or an OEM agreement according to which a company was given an exclusive right to use a core technology for all potential applications of that technology would not be regarded as in the Ordinary Course of Business. Any escrow agreement entered into as part of a transaction which is in the Ordinary Course of Business will be regarded as part of the Ordinary Course of Business provided that, upon the release of the escrow, the beneficiary of the escrow is entitled to use the technology of the Company only as may be necessary to fulfil the Company's undertakings under the main transaction.

**Permitted Security Interests**

As defined in the Loan Agreement.

**Receiver**

A receiver, trustee, administrator, administrative receiver, custodian, conservator, special manager or other similar official appointed by or on application of the Creditor, pursuant to the terms of this Debenture.

**Secured Liabilities**

As defined in Section 2.1

**Security Interest**

Any mortgage, pledge, lien, hypothecation, assignment by way of security, security interest or other charge or encumbrance over, of or in the relevant property.

1.2 Words and defined terms denoting the singular number include the plural and vice versa and the use of any gender shall be applicable to all genders.

1.3 The paragraph headings are for the sake of convenience only and shall not affect the interpretation of this Debenture.

1.4 The recitals, schedules, appendices, annexes and exhibits hereto form an integral part of this Debenture.

1.5 Capitalized terms not defined herein shall have the meaning ascribed thereto in the Loan Agreement.

**2. PURPOSE**

2.1 Secured Liabilities

The Security Interests created by this Debenture are created to secure the full and punctual payment and performance of all the obligations of the Company and the Co-Borrowers pursuant to the Loan Agreement, or to any amendment thereof with all expenses and other amounts due or to become due from the Company and the Co-Borrowers under the terms of this Debenture including, without limitation, reasonable legal fees, fees and out-of-pocket costs of any Receiver and any other reasonable, necessary and actual costs incurred in realizing the Security Interests granted hereunder (all such amounts, the "Secured Liabilities").

2.2 Prepayment

Except as expressly set forth in the Loan Agreement: (i) the Company and the Co-Borrowers shall not be entitled to discharge any amount of the Secured Liabilities prior to the agreed date for payment thereof; and (ii) neither the Company nor any third party having a right liable to be affected by the charges hereby created or the realisation thereof shall have any right under Section 13(b) of the Pledges Law, 5727-1967 or any other statutory provisions in substitution thereof.

**3. SECURITY**

3.1 Creation of Floating Charge

As security for the full and punctual payment or performance when due (whether at stated maturity, acceleration or otherwise) of the Secured Liabilities by the Company and the Co-Borrowers, the Company hereby, absolutely and unconditionally, charges and pledges in favour of the Creditor by way of first ranking floating charge and pledge:

- a. to the maximum extent possible, all of the Company's rights, title and interests in and to all of its present and future tangible and intangible assets, properties, rights and interests of any kind, whether contingent or absolute, including (for purposes of illustration), but in no way limited to, the assets described in Schedule 1 but excluding any assets subject to the Creditor Fixed Charge and subject to the Permitted Security Interest; and
- b. to the extent not included in the foregoing, all present and future rights to compensation, indemnity, insurance proceeds warranty or guaranty accruing to the Company by reason of the loss of, damage to or expropriation of, or any other event or circumstance with respect to, such Charged Assets and all proceeds, products and benefits deriving from such Charged Assets (including, without limitation, those received upon any collection, exchange, sale or other disposition of such Charged Assets and any property into which such Charged Assets are converted, whether cash or non-cash) (Sections 3.1(a) and (b) collectively, the "Charged Assets").

In addition, to the extent required by applicable law to create and perfect a first ranking floating charge over the Charged Assets specified in paragraph (b) above, the Company also assigns such Charged Assets to the Creditor by way of first ranking floating charge and pledge.

In particular, the Company hereby assigns to and in favour of the Creditor by way of first ranking floating charge and pledge (and each of the following shall be deemed to be expressly included in paragraph (b) above):

- (i) all present and future rights, claims and remedies of the Company under and in respect of the Insurances and any monies paid or payable pursuant thereto whether held in or for the benefit of any trust or other account relative thereto or otherwise;
- (ii) all present and future rights, claims and remedies of the Company under and deriving from the Property Tax and Compensation Fund Law, 5721-1961 as in force from or at any relevant time, and under any other applicable law arising in connection with the Charged Assets;

(iii) all present and future rights to compensation, indemnity, warranty or guaranty accruing to the Company by reason of the loss of, damage to or expropriation of, or any other event or circumstance with respect to, the Charged Assets.

With respect to insurance proceeds, so long as no Event of Default has occurred and is continuing, (i) the Company may commence, appear in, defend or prosecute any claim or action, and may adjust, compromise, settle and collect all claims and awards; provided however, that no settlements shall be made without the consent of Creditor which consent shall not be unreasonably withheld, conditioned or delayed, and (ii) all proceeds of insurance shall be made available to the Company to repair or restore the Charged Assets, as applicable. Nothing in this Debenture in any way limits the Company from entering into any transactions with regard to its Intellectual Property in the Ordinary Course of Business and making any Permitted Transfers.

### 3.2 First Ranking

The Company specifically acknowledges that all of the Security Interests created by the Company under Section 3 (Security) of this Debenture shall rank in priority to any other Security Interests created by the Company subject to the Creditor Fixed Charge and the Permitted Security Interests.

## 4. PRESERVATION OF SECURITY

### 4.1 Continuing Security

The Company declares and agrees that:

- (a) the Security Interests created by this Debenture shall remain in force as continuing security for the payment and discharge of the Secured Liabilities and shall remain in force notwithstanding any settlement of account or any other act, event or matter whatsoever, and, subject to Section 4.4, shall be fully released and discharged upon the full and final payment of the Secured Liabilities and subject to Section 4.4.
- (b) the Security Interests created and the powers conferred by this Debenture are in addition to, and are not in any way prejudiced or affected by, any other agreement between the Company and the Creditor; and
- (c) the Creditor will not be bound to enforce any other Security Interests before enforcing the Security Interests created by this Debenture

### 4.2 Nature of Security Interests

All Security Interests that have been or may be created in favour of the Creditor for payment and performance of the Secured Liabilities shall be independent of one another.

For the avoidance of doubt, it is hereby clarified that this Debenture is in addition to the Debenture - Fixed Charge (and in no manner in lieu thereof or replacement thereto), and each of this Debenture and the Debenture - Fixed Charge shall independently serve as aforesaid to secure the Secured Liabilities in their entirety. Without derogating from the generality of the foregoing or from any other right of the Creditor, the Creditor shall have the right to act on this Debenture, on the Debenture - Fixed Charge or on both, in each case in connection with the Security Interest created by each (including, without limitation, with respect to any and all assets, properties and rights subject to both this Debenture and the Debenture- Fixed Charge); and no action or omission relating to any such Security Interest shall prevent or estop the Creditor from invoking such other Security Interest, at the same time or subsequently.

### 4.3 Liability of the Company; Security Interest Absolute

- (a) The Company is a principal debtor and the Charged Assets are a principal security for the Secured Liabilities and, without prejudice to the foregoing, none of the rights of the Creditor, the Security Interests created hereunder or the liabilities or obligations of the Company or any third party, shall be impaired or discharged by (without limitation):
  - (i) the Creditor releasing any of the Charged Assets or granting any time or any indulgence whatsoever to or making any settlement, composition or arrangement with any third party;
  - (ii) the Creditor asserting or pursuing, failing or neglecting to assert or pursue, or delaying in asserting or pursuing, or waiving, any of its rights or remedies against the Company or any third party arising under or by virtue of this Debenture or otherwise;
  - (iii) the Creditor making any variation, amendment or supplement to this Debenture;
  - (iv) any agreement between the Creditor and the Company or any third party or any other document or instrument from time to time entered into between the Company or any third party and the Creditor;
  - (v) any change in the time, manner, place of payment or any other term or condition of the Secured Liabilities, or any other amendment or waiver of or under any agreement between the Creditor and the Company, the Charged Assets or any document related thereto;
  - (vi) the non-perfection of any Security Interest or any release, waiver or amendment from any guaranty for all or part of the Secured Liabilities;
  - (vii) the Creditor taking, accepting, varying, dealing with, enforcing, abstaining from enforcing, surrendering, exchanging or releasing any Security Interest in relation to the Company or any third party in such manner as any of them thinks fit, or claiming, proving for, accepting or transferring any payment in respect of the Secured Liabilities or the liabilities of any other third party in any composition by, or winding up of, any such party and/or any third party, or abstaining from so claiming, proving, accepting or transferring; or
  - (viii) to the fullest extent permitted by applicable law, any other circumstance that could otherwise constitute a defence to or discharge of the Company or any third party, other than the payment and performance in full of the Secured Liabilities.
- (b) Notwithstanding anything to the contrary contained in this Debenture, the Company will remain liable to observe and perform all of the conditions and obligations under the Loan Agreement relating to or constituting the Secured Liabilities or the Charged Assets and neither the Creditor nor any Receiver will be under any obligation or liability with respect to the Secured Liabilities or the Charged Assets by reason of or arising out of this Debenture. Neither the Creditor nor any Receiver will be required in any manner to perform or fulfil any of the obligations of the Company in respect of the Secured Liabilities or the Charged Assets, or to make any payment, or to make any enquiry as to the nature or sufficiency of any payment received by it, or to present or file any claim or take any action or to collect any amount or enforce any right or remedy hereunder.

- (c) The exercise by the Creditor of any of the rights or remedies hereunder shall not release the Company from any of its liabilities or obligations under any agreement between the Creditor and the Company; for the avoidance of doubt, the application of the Charged Assets to satisfy part of the Secured Liabilities shall not release the Company from its obligation to pay and perform the Secured Liabilities in full.

#### 4.4 Avoidance of Payments

To the extent that the Company and/or subsidiaries of the Company or any third party on behalf of the Company makes a payment or payments to the Creditor, or the Creditor enforces any Security Interest or exercises any right of set-off and such payment or payments or the proceeds of such enforcement or set-off or any part thereof are subsequently avoided or set aside, declared to be fraudulent or preferential or required to be repaid or refunded or reduced by virtue of any applicable law relating to bankruptcy, insolvency, administration, receivership, liquidation or similar proceedings, the Secured Liabilities or any part thereof originally intended to be satisfied, and this Debenture and all Security Interests, rights and remedies therefor, shall be revived and continued in full force and effect as if such payment or payments had not been made or such enforcement or set-off had not occurred.

#### 5. REPRESENTATIONS AND WARRANTIES

The Company hereby represents and warrants as follows as of the date hereof:

- 5.1 The Company is duly incorporated and validly existing under the laws of the State of Israel, with power and authority to own assets and to carry on its business as now being conducted.
- 5.2 It is duly and validly registered with the Israeli Registrar of Companies, with company number 514188135.
- 5.3 It has the power to enter into and perform, and has taken all necessary action to authorise the entry into, performance and delivery of, this Debenture and the transactions contemplated hereby.
- 5.4 All corporate actions on the part of the Company, its directors, and its shareholders necessary for the authorisation, execution and delivery of the Debenture and the performance of all of its obligations hereunder have been taken.
- 5.5 This Debenture constitutes its legal, valid and binding obligation enforceable in accordance with its terms, subject to mandatory bankruptcy, insolvency, fraudulent conveyance and reorganisation laws.
- 5.6 All material authorisations required in connection with the entry into, performance, validity and enforceability of this Debenture and the transactions contemplated hereby have been obtained or effected and are (and with respect to registration, shall be) in full force and effect and no steps have been taken to revoke or cancel any authorisation obtained or effected. The Company undertakes to file the Security Interests created hereby with the Israeli Companies Registrar and with the Israeli Patent Office (with respect to patents registered in Israel) within 21 days as provided under Israeli law.
- 5.7 The Security Interests created hereby constitute a legal, valid and binding, first ranking fixed charge over the Charged Assets (subject to the Permitted Security Interest), enforceable in accordance with the terms hereof. This Debenture confers the Security Interests it purports to confer over all of the Charged Assets and those Security Interests:
- (a) are not subject to any senior, *pari passu*, junior or subordinated Security Interests (other than the Permitted Security Interests); and
  - (b) are not liable to avoidance, due to (i) bankruptcy, winding-up, creditors' arrangement or any other similar insolvency proceedings for the reorganisation of the affairs of the Company or (ii) any other similar act or circumstance of the Company on the date of execution of this Debenture.
- 5.8 The Company has good and marketable title to the Charged Assets, free and clear of any Security Interests, except for the Creditor Fixed Charge and the Permitted Security Interests. With the exception of the above and to the best of the Company's knowledge, the Charged Assets are not affected by any restriction or condition relating to the transfer of ownership therein or to the mortgage, pledge or charge thereof, either at law or under any agreement whatsoever.
- 5.9 The Charged Assets that are tangible assets are in all material respects in good and substantial repair and condition ordinary wear and tear excepted.

#### 6. UNDERTAKINGS

The Company hereby undertakes as follows:

- 6.1 It shall not sell, convey, transfer, grant or lease or otherwise dispose of (or agree to do any of the foregoing at any future time) ("**Dispose**") any Charged Asset, except for the Permitted Transfers.
- 6.2 It shall not create or permit to subsist any Security Interest on (or agree to do any of the foregoing at any future time) any of the Charged Assets (whether ranking in priority or parity to the Security Interests created hereby), except for the Permitted Security Interests.
- 6.3 It shall defend the Charged Assets or cause the Charged Assets to be defended against, and shall take, at its expense, any action necessary to remove any Security Interest over the Charged Assets (other than the Permitted Security Interests), and shall defend the right, title and interest of the Creditor in and to any Charged Asset against the claims and demands of all other persons.
- 6.4 It shall keep the Charged Assets in good working order and condition (normal wear and tear excepted). The Company shall repair any damage or defect which may occur to the Charged Assets, in whole or in part, as the result of use or for any other reason whatsoever (normal wear and tear excepted). Without derogating from its obligations hereunder, the Company shall notify the Creditor immediately of any material damage or defect to the Charged Assets or any part thereof.
- 6.5 It shall observe and perform, in all material respects, all covenants and obligations of the Company in connection with each Pledged Accounts, and any of the related agreements to which the Company is a party or by which it is bound;
- 6.6 It will not knowingly take any action which is likely to prejudice or damage the Charged Assets or the enforceability of the Security Interests created hereunder.

- 6.7 It shall deposit with the Creditor all certificates and other documents of title or evidence of ownership in the Charged Assets and all ancillary documents relating to or affecting the Charged Assets as the Creditor may reasonably specify from time to time.
- 6.8 It will allow the Creditor or the Creditor's representatives at all reasonable times, upon the provision of reasonable notice, to inspect the condition of the Charged Assets wherever the same may be.

The Company shall keep the Charged Assets insured at all times and shall comply with the terms of such insurance policies.

- 6.9 The Company shall, forthwith upon the Creditor's first demand, furnish the Creditor with any licence, confirmation, certificate, receipt or other document which, in the reasonable opinion of the Creditor, is required or necessary for purpose of proof of compliance by the Company with its obligations under this Section 6.
- 6.10 Without derogating from the rights of the Creditor, the Company shall notify the Creditor of any default under this Debenture (and the steps, if any, being taken to remedy it) promptly upon it becoming aware of the occurrence thereof. In particular, the Company shall:
- (a) notify the Creditor immediately of the occurrence of any seizure, requisition, expropriation or forfeiture of the Charged Assets or any part thereof;
  - (b) notify the Creditor immediately of the imposition of any attachment or the issue of any execution proceedings or of any application for the appointment of a receiver, trustee, administrator, administrative receiver, custodian, conservator, special manager or other similar official (whether interim or permanent) over or with respect to the Charged Assets or any part thereof and shall immediately notify the authorities which levied such attachment or issued such execution proceedings or received the application for the appointment of such receiver, trustee, administrator, administrative receiver, custodian, conservator, special manager or other similar official and any third party who initiated or applied for such action, of this Debenture in favour of the Creditor, and forthwith to take, at the expense of the Company, all steps necessary for the discharge of such attachment, execution proceedings or appointment, as the case may be.

- 6.11 The Company shall, forthwith following the execution of this Debenture, register the Security Interests created by this Debenture with the Israeli Registrar of Companies, and with the Israeli Patent Office (with respect to Intellectual Property registered in Israel), and take any other necessary registry and file such registration within 21 days from the date hereof and shall deliver to the Creditor original certificates of registration of such Security Interests.
- 6.12 The Company shall, forthwith following the execution of this Debenture, deliver to the Creditor, Notices of Assignment in the form of Schedule 2 and Schedule 3, duly executed by the Company or on its behalf and addressed, in the case of notices in the form of Schedule 2, to each of the insurers liable on the Insurances and, in the case of the notice in the form of Schedule 3, to the relevant governmental agency.
- 6.13 For the avoidance of doubt, and notwithstanding anything to the contrary herein, it is hereby clarified that with respect to any and all of the assets, properties and rights of the Company which are, or which may in the future be, subject to the charge and pledge under the Debenture – Fixed Charge, the Company is and shall be subject to the terms, conditions, limitations and restrictions contained in the Debenture – Fixed Charge in addition to those contained herein.

## **7. RIGHTS OF THE CREDITOR**

### **7.1 Creditor's Right to Perform**

Without derogating from the rights of the Creditor to realize the Security Interests granted hereunder, if the Company for any reason whatsoever fails to duly and punctually observe or perform or comply with any of its obligations under this Debenture, including under Section 6, the Creditor shall, after giving five (5) Business Days written notice to the Company, have the power, on behalf of or in the name of the Company or otherwise, to perform the obligations and to take any steps which the Creditor may, in its absolute discretion, consider appropriate with a view to remedying, or mitigating the consequences of the failure, but without in any way becoming liable therefor and provided that the exercise of this power, or the failure to exercise it, shall in no circumstances prejudice the Creditor's rights hereunder.

### **7.2 Set-Off**

The Creditor may set off any sum, in the Contractual Currency, as the case may be, due or owing to the Company from the Creditor in any account, manner or circumstance whatsoever, against the Secured Liabilities, in whole or in part. In no event and under no circumstances may the Company set off any sum that may be due or owing to the Company from the Creditor in any account, manner or circumstance whatsoever, against the Secured Liabilities, in whole or in part.

## **8. DEFAULT AND ENFORCEMENT**

### **8.1 Events of Default**

The occurrence of any of the following events shall constitute an Event of Default:

- (a) any event of default which constitutes an Event of Default as defined in the Loan Agreement and/or the other Security Documents;
- (b) intentionally omitted;
- (c) the Company breaches or fails to comply with any provision of this Debenture or any other agreement between the Creditor and the Company;
- (d) any Event of Default under the Debenture – Fixed Charge.

### **8.2 Creditor's Powers**

- (a) Upon and at any time after the occurrence of an Event of Default, the Creditor shall be entitled to declare any or all of the Secured Liabilities immediately due and payable.

- (b) Upon and at any time after the occurrence of an Event of Default the Creditor shall also be entitled to take all such steps as it sees fit to collect the Secured Liabilities from the Company and, in addition thereto, without prejudice to any and all of its other rights, to realise the Charged Assets, whether by the application for the appointment of a Receiver or whether by any other method the Creditor shall see fit, subject to applicable law.
- (c) The Creditor shall be entitled, in any proceedings concerning the bankruptcy, liquidation, winding up or receivership (or similar proceedings) of the Company, to:
  - (i) demand, claim, collect and enforce and prove the Secured Liabilities and give acquittance thereunder;
  - (ii) file any claims and proofs, give receipts and take all such proceedings and do all such things as the Creditor sees fit to recover the Secured Liabilities; and
  - (iii) receive all distributions on and payments with respect to the Secured Liabilities.
- (d) Upon and at any time after the occurrence of an Event of Default the Creditor shall have all powers that it may, in its full discretion, determine to be desirable or necessary to preserve the Charged Assets and the Security Interests created hereby and to take all such reasonable steps for such purpose at the Company's expense subject to applicable law.

### 8.3 Receiver

- (a) The Receiver shall have all powers conferred by applicable law, including, without limitation, the power:
  - (i) to receive into his hands the Charged Assets and to take possession thereof;
  - (ii) to require the Company to deliver or otherwise make available such of the Charged Assets as the Receiver may demand, and without the consent of the Company, enter into any premises of the Company or any place where the Charged Assets are located and take possession of any of the Charged Assets;
  - (iii) to manage the Company's business or participate in the management thereof as he may see fit;
  - (iv) to sell or agree to the sale of the Charged Assets, in whole or in part, or to transfer the same in any other manner upon such conditions as he may see fit and to Dispose any of the Charged Assets (and such power shall include (to the extent necessary) a non-exclusive license of the Company to use any Intellectual Property required in order to use and operate any of the Charged Assets and in particular the Company's inventory);
  - (v) to exercise any right charged or pledged hereunder in the same manner in which the Company was entitled to exercise such right in accordance with the terms of Section 20 of the Pledges Law, 5727-1967;
  - (vi) to employ accountants, lawyers, architects, surveyors, engineers, quantity surveyors, contractors, builders, workmen and others and to purchase or hire materials, tools, equipment or supplies;
  - (vii) to call up any of the Company's uncalled share capital;
  - (viii) to do any other act or thing which the Receiver considers to be incidental or conducive to the exercise of any other right exercisable by him; and
  - (ix) to make any other arrangement with respect to the Charged Assets or any part thereof as he may see fit;

- (b) Should the payment date of the Secured Liabilities or any part thereof not yet have fallen due at the time of the sale of the Charged Assets, or the Secured Liabilities be due to the Creditor or Receiver on a contingent basis only, then the Creditor or Receiver shall be entitled to recover out of the proceeds of the sale an amount sufficient to cover the Secured Liabilities (or such part thereof) and the amount so recovered and yet to be appropriated to the discharge of the amounts due shall be charged to the Creditor or Receiver as security for, and be held by the Creditor or Receiver until the discharge in full of, the Secured Liabilities.
- (c) The Receiver will be the agent of the Company and the Company alone shall be responsible for the acts and omissions of the Receiver and for the Receiver's remuneration. In no event shall the Creditor be responsible for the acts and omissions of the Receiver or for the Receiver's remuneration.

## 9. DISTRIBUTION OF PROCEEDS

All moneys and other assets arising from the exercise of the powers of the Receiver or the Creditor or otherwise received by the Creditor or the Receiver from the realisation of any Charged Asset shall be applied as follows:

- (a) in payment of the reasonable out-of-pocket expenses incurred as a result of such realisation (including the appointment and remuneration of the Receiver);
- (b) in payment of all other reasonable out-of-pocket expenses, accrued interest and default interest (if any), linkage differentials and any other amounts due and payable by the Company to the Creditor under the Loan Agreement and which have not been paid; and
- (c) in payment of all principal sums due and payable by the Company to the Creditor and which have not been paid.

## 10. FURTHER ACTION

The Company further covenants with the Creditor from time to time upon reasonable demand to execute, at the Company's own cost and within reasonable time, any document or do any act or thing which:

- (a) in the reasonable determination of the Creditor is necessary to create, perfect, register or give effect to any pledge, charge, assignment or Security Interest created or intended to be created by this Debenture;
- (b) in the reasonable determination of the Creditor is necessary to preserve or protect any of the rights of the Creditor; or
- (c) the Creditor or the Receiver may reasonably specify with a view to facilitating the exercise, or the proposed exercise, of any of their powers or the protection, management or realisation of the Charged Assets upon the occurrence and during the continuance of an Event of Default.

failing which the Creditor may, and the Company hereby appoints the Creditor as its attorney-in-fact to, execute, at the Company's reasonable expense, any such document or do any such act or thing, in the name and on behalf of the Company.

## 11. PROTECTION OF CREDITOR AND RECEIVER

- (a) Other than with respect to fraud, wilful misconduct and gross negligence, or any action in breach of this Debenture, neither the Creditor nor the Receiver, nor any of their respective agents, managers, officers, directors, employees, delegates, and advisers shall be liable for any claim, demand, liability, loss, damage, cost or expense which arises out of the exercise or the attempted or purported exercise or the failure to exercise any of their respective rights, powers and discretions under this Debenture.
- (b) Neither the Creditor nor any Receiver, nor any of their respective agents, managers, officers, directors, employees, delegates, and advisers shall be under any duty to exercise any of their respective rights, powers and discretions under this Debenture.
- (c) To the extent permitted by applicable law, the Company hereby waives any requirements, except as otherwise required by this Debenture, with respect to notice, form or the terms of the exercise by the Creditor, the Receiver, or any of their respective agents, managers, officers, directors, employees, delegates, and advisers of their respective rights, powers and discretions under this Debenture.

## 12. INDEMNITY

12.1 The Company shall forthwith on demand indemnify each of the Creditor and the Receiver (as well as any subsidiaries or affiliates of the Creditor or the Receiver) and their respective officers, directors, agents, managers, servants and employees (the “**Indemnified Persons**”) against any loss, expense or liability incurred as a consequence of (except to the extent that any of the following arise as a result of the Indemnified Persons’ fraud, wilful misconduct and gross negligence):

- (a) anything done or purported to be done by or on behalf of the Creditor or the Receiver under this Debenture or any other document as a result of any failure by the Company to comply with its obligations hereunder;

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- (b) any payment in respect of the Secured Liabilities (whether made by the Company or a third person) being impaired or declared void for any reason whatsoever;
- (d) the exercise, or attempted or purported exercise, or the consideration of the exercise, by or on behalf of the Creditor or the Receiver of any of the rights or powers of the Creditor or of the Receiver or any other action taken by or on behalf of the Creditor or the Receiver with a view to or in connection with the recovery by the Creditor or Receiver of the Secured Liabilities from the Company or any other person; or
- (e) the carrying out of any other lawful act or matter which the Creditor or the Receiver or any other person on behalf of either of them may reasonably consider to be necessary for the preservation of the Charged Assets,

12.2 Intentionally Omitted.

## 13. COSTS AND EXPENSES

13.1 The Company shall pay all filing fees payable in respect of this Debenture.

13.2 All the actual fees, reasonable out-of-pocket costs and expenses incurred by the Creditor or any Receiver in connection with the enforcement of this Debenture and realization of the Charged Assets shall be paid by the Company to the Creditor or any Receiver, as applicable, upon first demand and shall form part of the Secured Liabilities.

## 14. ASSIGNMENT

14.1 This Debenture shall be binding upon and inure to the benefit of each party hereto and its permitted successors and assigns.

14.2 The Company may not assign or transfer all or any part of its rights and/or obligations under this Debenture.

14.3 The Creditor and all those claiming under it shall be entitled, at all times, to assign this Debenture together with the Loan Agreement to any third party.

## 15. MISCELLANEOUS

### 15.1 Communications

All notices or other communications hereunder shall be in writing and shall be given in person, by registered mail (registered international air mail if mailed internationally), by an overnight courier service which obtains a receipt to evidence delivery, by email (provided that no notification of failure was received) or by facsimile transmission (provided that written confirmation of receipt is provided) with a copy, addressed as set forth below:

If to the Company:

Motus GI Medical Technologies Ltd.  
22 Keren ha-Yesod Street, Tirat Carmel, Israel  
Attn: Andrew Taylor  
E-mail: andrew@motusgi.com

With a copy (which shall constitute a notice) to:  
Lowenstein Sandler LLP  
One Lowenstein Drive  
Roseland, New Jersey 07068  
Attn: Steven Skolnick  
Email: sskolnick@lowenstein.com

If to the Creditor:

Kreos Capital VI (Expert Fund) LP  
47 Esplanade, St. Helier, Jersey  
Fax: +44 1534 889 884  
Attn: Raoul Stein

With a copy (which shall not constitute a notice) to:  
Kadouch & Co, Law Offices  
11 Ha'Sadna'ot Street  
P.O.B. 12695 Herzliya 4673300, Israel  
Fax: +972 9 952 5454  
Email: [emmanuel@kadouchlaw.com](mailto:emmanuel@kadouchlaw.com)  
Attn: Emmanuel Kadouch, Adv.

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or such other address as any party may designate to the other in accordance with the aforesaid procedure. All communications delivered in person or by courier service shall be deemed to have been given upon delivery, those given by email shall be deemed given on the business day following transmission, those given by facsimile transmission shall be deemed given on the business day following transmission with confirmed answer back, and all notices and other communications sent by registered mail (or air mail if the posting is international) shall be deemed given ten (10) days after posting.

#### 15.2 Delays or Omissions: Waiver

The rights of the Creditor may be waived only in writing and specifically; the conduct of the Creditor shall not be deemed a waiver of any of its rights pursuant to this Debenture and/or as a waiver or consent on its part as to any breach or failure to meet any of the terms of this Debenture or as an amendment hereto. A waiver by the Creditor in respect of a breach by the Company of its obligations shall not be construed as a justification or excuse for a further breach of its obligations.

No delay or omission to exercise any right, power, or remedy accruing to the Creditor upon any breach or default by the Company shall impair any such right or remedy nor shall it be construed to be a waiver of any such breach or default, or any acquiescence therein or in any similar breach or default thereafter occurring.

The rights of the Creditor hereunder may be exercised as often as necessary and are cumulative and not exclusive of its rights under applicable law.

#### 15.3 Amendments

Any term of this Debenture may be amended or modified only by a written document signed by the Company and the Creditor.

#### 15.4 Realization of IIA Intellectual Property

It is hereby agreed that:

15.4.1 the Creditor acknowledges and understands that the Company is subject to the provisions of the Law for the Encouragement of Research and Development and Technological Innovation in Industry Law 5744-1984 - as amended from time to time and/or such other law as will be legislated in lieu thereof, including the regulations, directives, procedures and rules that have been or will be promulgated thereunder and/or by virtue thereof, including without limitation, Benefit Track Number 1 of the Israeli National Authority for Technological Innovation (the "IIA"), and other regulations, directives, guidelines, rules, as issued from time to time, by the IIA and the IIA Committee (collectively, the "IIA Regulations") and the Creditor is aware of the Company's obligation to comply with the IIA Regulations, including, but not limited to, the payment of royalties with respect to the financing amount which the Company received from the IIA and the prohibition on transferring any of the Company's knowhow (including by way of manufacturing or rights to manufacture) outside of Israel);

15.4.2 in light of the above, and as required by the IIA Regulations, notwithstanding anything to contrary herein, in the Loan Agreement, this Debenture or the Debenture Floating Charge dated as of the date hereof by and between Creditor and the Company ("**Debenture Floating Charge**"), with respect to the IIA Funded Know-How (as such term is defined below), the coming into effect of both this Debenture and the Debenture Floating Charge is subject and conditioned upon the receipt of the approval of the IIA (the "**IIA Approval**");

15.4.3 the Creditor shall sign any customary IIA documentation that may be required or desired with respect to the this Debenture Floating Charge and the Creditor Floating Charge; and

15.4.4 it is further clarified that the documents which will be filed with the Israeli Companies Registrar and with the Israeli Patent Office (with respect to patents registered in Israel) with respect to this Debenture and the Debenture Floating Charge shall include the condition set forth in Subsection 15.4.2 above regarding the IIA Approval.

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As used herein, the term "IIA Funded Know-How" shall mean all of the Company's know-how resulting from research and development according to an IIA-approved plan, not being the product developed within the framework of such approved plan, and any right deriving therefrom.

#### 15.5 Entire Agreement

This Debenture together with the Debenture Floating Charge, and the Loan Agreement, all as may be amended and/or supplemented from time to time, contain the entire understanding of the parties with respect to their subject matter and all prior negotiations, discussions, agreements, commitments and understandings between them with respect thereto not expressly contained herein shall be null and void in their entirety, effective immediately with no further action required.

#### 15.6 Severability

If a provision of this Debenture is or becomes illegal, invalid or unenforceable in any jurisdiction, that shall not affect the validity or enforceability in that jurisdiction of any other provision hereof or the validity or enforceability in other jurisdictions of that or any other provision hereof.

Where provisions of any applicable law resulting in such illegality, invalidity or unenforceability may be waived, they are hereby waived by each party to the full extent permitted so that this Debenture shall be deemed valid and binding agreements, in each case enforceable in accordance with its terms.

15.7 Counterparts, Facsimile Signatures

This Debenture may be executed in any number of counterparts, and this has the same effect as if the signatures on the counterparts were on a single copy of the Debenture. A signed Debenture received by a party hereto via facsimile, email (or scanned and sent by other electronic means) will be deemed an original, and binding upon the party who signed it.

15.8 Governing Law and Venue

This Debenture shall be governed by and construed in accordance with the laws of the State of New York, without giving effect to the principles thereof relating to conflict of laws. The Company and the Creditor, each irrevocably submits to the jurisdiction of the courts of the State of New York located in New York County and the United States District Court for the Southern District of New York for the purpose of any suit, action, dispute proceeding or judgment relating to or arising out of this Debenture. Notwithstanding the aforementioned, the enforcement of this Debenture in the State of Israel shall be subject to the applicable mandatory provisions of the laws of the State of Israel.

15.9 Further Actions

Each of the parties hereto shall perform such further acts and execute such further documents as may reasonably be necessary to carry out and give full effect to the provisions of this Debenture and the intentions of the parties as reflected thereby.

15.10 No Third-Party Beneficiaries

Nothing in this Debenture shall create or confer upon any person or entity, other than the parties hereto or their respective successors and permitted assigns, any rights, remedies, obligations or liabilities, except as expressly provided herein.

15.11 Value Added Tax ("VAT")

To the extent that any amount payable under this Debenture is subject to VAT by law, the party paying such amount shall pay the VAT against receipt of a duly issued VAT invoice.

15.12 Translation of This Debenture.

To the extent required, this Debenture may be translated into Hebrew for the sole purpose of the registration and filing of this Debenture with the Israeli Registrar of Companies and/or any other relevant Israeli official registration. Notwithstanding the aforesaid, the executed English version of this Debenture shall prevail and supersede for all purposes and for all respects, in the event of any discrepancy or inconsistency between the English version and the translation.

[Rest of page intentionally left blank]

[Signature Page of Debenture– Floating Charge]

IN WITNESS WHEREOF this Debenture has been executed by the Parties, on the day and year first above written.

**MOTUS GI MEDICAL TECHNOLOGIES LTD.**

*/s/ Andrew Taylor*

By: Andrew Taylor  
Title: Authorized Officer

**KREOS CAPITAL VI (EXPERT FUND) LP**

*/s/ Raoul Stein*

By: Raoul Stein  
Title: General Partner

**SCHEDULE 1**

**List of Assets**

1. All goods and equipment now owned or hereafter acquired, including, without limitation, all machinery, fixtures, vehicles, and any interest in any of the foregoing, and all attachments, accessories, accessions, replacements, substitutions, additions, and improvements to any of the foregoing, wherever located, and any documents of title representing any of the above and any uncalled share capital;
2. All intellectual property rights of the Company now owned or hereafter acquired ("**Intellectual Property**"), but including, without limitation, intangible legal rights, title and interest related to (i) copyrights, copyright applications, copyright registrations and like protections in each work of authorship and derivative work thereof, whether published or unpublished, now owned or hereafter acquired; (ii) patents and all applications, registrations, and renewals in connection therewith; (iii) trademarks, service marks, trade names, trade styles, goodwill, mask works, Internet domain names and all applications, registrations, and renewals in connection therewith; (iv) all trade secrets, rights to unpatented inventions, know-how and confidential information; (v) all computer software programs (including data, computer discs, computer tapes and related documentation); (vi) all intellectual property embodied in or pursuant to contract rights and general intangibles now owned or hereafter acquired, including such intellectual property rights as may be embodied in or pursuant to research agreements, consulting agreements, license agreements and license rights, franchise agreements, blueprints, drawings, reports, catalogues, operating manuals and design rights, and; (vii) all claims for damages by way of any past, present and future infringement of any of the foregoing and rights to payment thereof of any kind.
3. All inventory, now owned or hereafter acquired, including, without limitation, all merchandise, raw materials, parts, supplies, packaging and shipping materials, work in process and finished products including such inventory as is temporarily out of the Company's custody or possession or in transit and including any returns upon any accounts or other proceeds, including insurance proceeds, resulting from the sale or disposition of any of the foregoing and any documents of title representing any of the above;
4. All contract rights and general intangibles of the Company now owned or hereafter acquired, including, without limitation, leases, license agreements, distribution agreements, supply agreements, franchise agreements, purchase orders, customer lists, route lists, computer discs, computer tapes, income tax refunds, payments of insurance; all existing and future claims, rights, causes of actions, judgments, remedies and security interests, whether voluntary, involuntary, absolute, contingent or by operation of law;
5. All now existing and hereafter arising accounts, royalties and all other forms of obligations owing to the Company arising out of the sale or lease of goods, the licensing of technology or the rendering of services by the Company, whether or not earned by performance, and any and all credit insurance, guaranties, and other security of the Company,

as well as all merchandise returned to or reclaimed by the Company;

6. All documents, cash, deposit, savings or other accounts, securities, securities entitlements, securities accounts, investment property, financial assets, letters of credit, certificates of deposit, instruments and chattel paper now owned or hereafter acquired and the Company's books relating to the foregoing;

7. All the Company's books and records, including records relating to the Company's assets or liabilities, the Charged Assets, business operations or financial condition and all computer programs or discs or any equipment containing such information; and

8. All claims, rights and interests in any of the above and all substitutions for, additions and accessions to and proceeds thereof.

9. All insurance policies or the proceeds thereof in respect of the above described assets.

10. All accounts receivables.

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**SCHEDULE 2**  
**Form of Notice of Assignment**

To: **[Insurer]**

Date: [ ]  
Dear Sirs,

We hereby give you notice (the "Notice") that we have assigned by way of security (the "Assignment") all of our right, title and interest in and to **insurance policy no. \_\_\_\_\_ and the proceeds thereof** (the "Relevant Documents") to Kreos Capital VI (Expert Fund) LP (the "Creditor"), pursuant to a Debenture entered into by us in favour of the Creditor dated the date hereof, in relation to the Assets as set out in the attached Appendix.

Notwithstanding the Assignment, we remain liable to perform all our obligations under the Relevant Documents, if any, and the Creditor will have no liability in respect of those obligations.

We hereby irrevocably instruct and authorise you to:

(i) make all payments under or arising from the Relevant Documents to the following account with the Creditor (or such other account as the Creditor may notify you in writing):

Name:  
Number:  
Branch:

(ii) disclose to the Creditor without any reference to or further authority from us and without any enquiry by you as to the justification for such disclosure, such information relating to the Relevant Documents as the Creditor may at any time and from time to time request, to the extent we were entitled to request such information pursuant to the terms of the Relevant Documents;

(iii) comply with the terms of any written notice or instructions in any way relating to, or purporting to relate to, the Assignment, the sums payable to us from time to time in respect of the Relevant Document or the debts represented thereby which you receive at any time from the Creditor in respect of the Relevant Document without any reference to or further authority from us and without any enquiry by you as to the justification for or validity of such notice or instruction, to the extent we were entitled to issue such instruction or notice pursuant to the terms of the Relevant Document; and

(iv) send copies of all certificates, notices, documents and other information supplied to us in relation to the Relevant Document to the Creditor.

Please also note that these instructions are not to be revoked or amended without the prior written consent of the Creditor.

This letter shall be governed by and construed in accordance with Israeli law.

Yours faithfully,  
**Motus GI Medical Technologies Ltd**

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**APPENDIX**

Assets

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**SCHEDULE 3**

**Notice of assignment of Compensation Proceeds**

To: [ ]

[Date]

**Re: The assets set out in the attached schedule (the “Assets”)**

We hereby give you notice (the “**Notice**”) that we have assigned by way of security (the “**Assignment**”) to Kreos Capital VI (Expert Fund) LP (the “**Creditor**”), all of our right, title and interest, present and future, to all amounts that are payable under the Property Tax and Compensation Fund Law, 5721-1961, and under any other applicable law, arising in connection with the Assets (“**Compensation Proceeds**”).

Please acknowledge that you have received this Notice by signing and returning to each of the Creditor and ourselves a copy of the attached Acknowledgement.

This Notice will be governed by and construed in accordance with Israeli law.

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For and on behalf of  
Motus GI Medical Technologies Ltd.

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## U.S. INTELLECTUAL PROPERTY SECURITY AGREEMENT

This U.S. INTELLECTUAL PROPERTY SECURITY AGREEMENT (the “**IP Security Agreement**”) July 16, 2021 is made by and between (i) Motus GI Medical Technologies Ltd. (the “**Grantor**”) a company incorporated in Israel under registered number 514188135 whose registered office is at 22 Keren ha-Yesod Street, Tirat Carmel, Israel, and (ii) Kreos Capital VI (Expert Fund) LP (“**Kreos**”), a partnership incorporated in Jersey whose registered office is at 47 Esplanade, St Helier, Jersey. Capitalized term used herein but not otherwise defined shall have the meaning ascribed such term in the Loan Agreement (hereinafter defined).

WHEREAS, the Grantor, Motus GI Holdings, Inc. and Motus GI, LLC (together, the “**Borrower**”) and Kreos, have entered into that certain Agreement for the Provision of a Loan Facility dated on or about the date hereof (the “**Loan Agreement**”); and

WHEREAS, under the terms of the Loan Agreement, Grantor has agreed, among other things, to grant security interest in the key material intellectual property of the Grantor to Kreos, and the Grantor has agreed to execute this IP Security Agreement for recording with the U.S. Patent and Trademark Office on the Collateral throughout the term of this IP Security Agreement.

NOW, THEREFORE, for good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, and intending to be legally bound hereby, the parties agree as follows:

Section 1. Grant of Security. Subject to the provisions of the Loan Agreement, Grantor hereby grants to Kreos a security interest, subject to the Permitted Security Interest, in and to all right, title and interest to (i) the registered United States patents and pending applications as set forth in Schedule A hereto together with all reissues, divisions, continuations, continuations-in-part, extensions and reexaminations thereof, and all rights therein provided by international treaties or conventions (the “**Patents**”), (ii) the registered trademarks, service marks, trade names and domain names, and applications therefore as set forth in Schedule A hereto together with all goodwill associated with such trademarks and service marks and all rights therein provided by international treaties or conventions (the “**Trademarks**”), and (iii) all copyrights and registrations and applications therefore set forth in Schedule A (the “**Copyrights**”), all as currently owned by the Grantor or which shall be owned in the future by the Grantor subject to Section 7 below (collectively, the “**Collateral**”). Notwithstanding anything contained here to the contrary, the term Collateral expressly excludes Immaterial Intellectual Property. Schedule A shall be updated pursuant to the provisions of Section 3.8(i) of the Loan Agreement upon the application for, or acquisition of, any New Intellectual Property in the United States by the Grantor, and the Grantor shall file amendments to Schedule A to that effect, all pursuant and subject to said subsection of the Loan Agreement.

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Section 2. Realization of IIA Intellectual Property. It is hereby agreed that:

- (a) Kreos acknowledges and understands that the Grantor is subject to the provisions of the Law for the Encouragement of Research and Development and Technological Innovation in Industry Law 5744-1984 - as amended from time to time and/or such other law as will be legislated in lieu thereof, including the regulations, directives, procedures and rules that have been or will be promulgated thereunder and/or by virtue thereof, including without limitation, Benefit Track Number 1 of the Israeli National Authority for Technological Innovation (the “**IIA**”), and other regulations, directives, guidelines, rules, as issued from time to time, by the IIA and the IIA Committee (collectively, the “**IIA Regulations**”) and Kreos is aware of the Grantor’s obligation to comply with the IIA Regulations, including, but not limited to, the payment of royalties with respect to the financing amount which the Grantor received from the IIA and the prohibition on transferring any of the Grantor’s knowhow (including by way of manufacturing or rights to manufacture) outside of Israel);
- (b) in light of the above, and as required by the IIA Regulations, notwithstanding anything to contrary herein, in the Loan Agreement and this IP Security Agreement, with respect to the IIA Funded Know-How (as such term is defined below), the coming into effect of both this IP Security Agreement is subject and conditioned upon the receipt of the approval of the IIA (the “**IIA Approval**”);
- (c) Kreos shall sign any customary IIA documentation that may be required or desired with respect to this IP Security Agreement; and
- (d) it is further clarified that the documents which will be filed with the U.S. Patent and Trademark Office with respect to this IP Security Agreement shall include the condition set forth in Subsection (b) above regarding the IIA Approval.
- (e) As used herein, the term “**IIA Funded Know-How**” shall mean all of the Grantor’s know-how resulting from research and development according to an IIA-approved plan, not being the product developed within the framework of such approved plan, and any right deriving therefrom.

Section 3. Security for Obligations. The grant of a security interest in the Collateral by Grantor to Kreos under this IP Security Agreement secures the performance of all obligations and the payment of all money and liabilities owed or incurred by the Borrower to Kreos now or hereafter existing under or in respect of the Loan Agreement, as may be amended from time to time (the “**Secured Obligations**”).

Section 4. Recordation. Grantor authorizes and requests that the Commissioner of Patents and Trademarks record this IP Security Agreement.

Section 5. Right to Request Information. Kreos shall have the right to request, and Grantor shall promptly provide upon such reasonable request, information reasonably required in order to confirm that Schedule A is updated.

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Section 6. Grants, Rights and Remedies. This IP Security Agreement has been entered into in conjunction with the provisions of the Loan Agreement. The Grantor does hereby acknowledge and confirm that the grant of the security interest hereunder to, and the rights and remedies of Kreos with respect to the Collateral are more fully set forth in the Loan Agreement and the debentures (Fixed Charge and Floating Charge – as defined therein) annexed thereto, and in the event of any contradiction between this IP Security Agreement and the Loan Agreement or any document annexed thereto, the provisions of the Loan Agreement will prevail.

Section 7. Governing Law; Forum for Dispute Resolution. This IP Security Agreement shall be governed by and construed according to the laws of the State of New York, without giving effect to conflicts of law principles. Grantor and Kreos, each irrevocably submits to the jurisdiction of the courts of the State of New York located in New York County and the United States District Court for the Southern District of New York for the purpose of any suit, action, dispute proceeding or judgment relating to or arising out of this IP Security Agreement.

Section 8. Termination. This IP Security Agreement and the security interest granted hereunder to Kreos shall terminate and be of no force upon indefeasible satisfaction in full of the Secured Obligations. Upon termination of this IP Security Agreement and the security interest granted to Kreos hereunder, Kreos shall execute all documents reasonably necessary to remove the security interest granted by Grantor hereunder and take any action reasonably necessary to remove the security interest granted

by Grantor hereunder, including without limitation, the filing of a Termination Statement in the USPTO for the affected Patents and Trademarks.

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IN WITNESS WHEREOF, Grantor and Kreos have caused this IP Security Agreement to be duly executed and delivered by their officers thereunto duly authorized as of the date first above written.

MOTUS GI MEDICAL TECHNOLOGIES LTD.

By: /s/ Andrew Taylor

Name: Andrew Taylor

Title: Authorized Officer

KREOS CAPITAL VI (EXPERT FUND) LP

By: /s/ Raoul Stein

Name: Raoul Stein

Title: General Partner

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**SCHEDULE A**

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## Motus GI Secures Expanded \$12M Credit Financing to Support Growth Strategy

FORT LAUDERDALE, FL., July 21, 2021 (GLOBE NEWSWIRE) -- Motus GI Holdings, Inc., (NASDAQ: MOTS) ("Motus GI" or the "Company"), a medical technology company providing endoscopy solutions that improve clinical outcomes and enhance the cost-efficiency associated with the diagnosis and management of gastrointestinal conditions, announced today that it has successfully refinanced its debt and expanded its long-term credit facility by securing a new loan agreement with Kreos Capital VI LP (Kreos Capital) for up to \$12.0 million, which replaces the previous term loan agreement with Silicon Valley Bank and removes the existing \$10.0 million minimum cash balance liquidity covenant.

"We are pleased to announce this new partnership with Kreos Capital, a leading debt provider for high-growth companies. We believe this transaction reflects the confidence that Kreos has in the Company and our ability to execute our strategy," commented Tim Moran, Chief Executive Officer of Motus GI. "By increasing the credit line by 50 percent from \$8.0 million to \$12.0 million, this new agreement immediately strengthens our balance sheet and extends our cash runway to continue to build the market for the Pure-Vu System."

Chris Church, Principal at Kreos, commented, "The Pure-Vu system is an innovative product with the potential to substantially improve bowel preparation, and we are excited to partner with Motus GI for the next stage of their growth bringing this system to clinicians across the country."

### About the Transaction

The new term loan agreement is split into three tranches, including a \$5.0 million term loan and a \$4.0 million convertible loan that were both funded on July 16, 2021. The third tranche is a \$3.0 million term loan option available to be drawn by the Company through December 31, 2021. The term loan tranches require monthly interest-only payments at an implied fixed interest rate of 9.5% per annum through September 30, 2022, with, subject to certain conditions, the potential to extend interest only payments to June 30, 2023, followed by amortizing monthly payments of principal and interest until June 1, 2025. The Company will make monthly cash interest-based payments on an implied annual interest rate of 7.75% on the convertible tranche through maturity, if not converted, at which point the outstanding principal will be due 48 months following the closing date, on July 1, 2025. For the convertible tranche, a fixed conversion price, exercisable at the option of the lender, was set at \$1.40, representing a 45% premium to the closing price of the Company's stock on July 16, 2021. As part of the transaction, the Company also issued the lender a warrant to purchase 190,949 shares at an exercise price of \$1.0474 per share.

The Company intends to use the proceeds of the credit facility to refinance the Company's existing indebtedness in the amount of approximately \$8.2 million, and to enhance the Company's product development and commercial growth plans, and for general corporate purposes.

A Current Report on Form 8-K containing more detailed information regarding the loan agreement will be filed with the Securities and Exchange Commission.

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### About Motus GI

Motus GI Holdings, Inc. is a medical technology company, with subsidiaries in the U.S. and Israel, providing endoscopy solutions that improve clinical outcomes and enhance the cost-efficiency associated with the diagnosis and management of gastrointestinal conditions. For more information, visit [www.motusgi.com](http://www.motusgi.com) and connect with the Company on Twitter, LinkedIn and Facebook.

### About Kreos Capital

Kreos Capital is the leading growth debt provider in Europe and Israel, backing high-growth companies through every stage of their life cycle. Kreos targets investments in all areas of the Technology and Healthcare sectors and, to date, has committed in excess of €3.1 billion in more than 630 portfolio company transactions, across 17 countries. With over \$1.5 billion in current funds under management Kreos can invest between \$2.0 million and \$100.0 million per transaction in both public and private companies across stages.

### Forward-Looking Statements

This press release contains certain forward-looking statements. Forward-looking statements are based on the Company's current expectations and assumptions. The Private Securities Litigation Reform Act of 1995 provides a safe harbor for forward-looking statements. These statements may be identified by the use of forward-looking expressions, including, but not limited to, "expect," "anticipate," "intend," "plan," "believe," "estimate," "potential," "predict," "project," "should," "would" and similar expressions and the negatives of those terms, including without limitation, risks related to the Company's cost reduction plan, the cost savings and the cash expenses related to the implementation of the plan, risks related to the continued impact of the COVID-19 pandemic, risks inherent in the development and commercialization of potential products, uncertainty in the timing and results of clinical trials or regulatory approvals, maintenance of intellectual property rights or other risks discussed in the Company's Form 10-K filed on March 16, 2021, and its other filings with the Securities and Exchange Commission. Prospective investors are cautioned not to place undue reliance on such forward-looking statements, which speak only as of the date hereof. The Company undertakes no obligation to publicly update any forward-looking statement, whether as a result of new information, future events or otherwise.

### Investor Contact:

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