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): May 24, 2024

VENUS CONCEPT INC.

(Exact name of registrant as specified in its charter)

Delaware	**001-38238**	**06-1681204**
(State or other jurisdiction of incorporation)	**(Commission File Number)**	**(IRS Employer Identification Number)**

235 Yorkland Blvd, Suite 900
Toronto, Ontario M2J 4Y8
(Address of principal executive offices, including Zip Code)

Registrant's telephone number, including area code: (877) 848-8430

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:

☐ Written communications pursuant to Rule 425 under the Securities Act (17 CFR 230.425)

☐ Soliciting material pursuant to Rule 14a-12 under the Exchange Act (17 CFR 240.14a-12)

☐ Pre-commencement communications pursuant to Rule 14d-2(b) under the Exchange Act (17 CFR 240.14d-2(b))

☐ Pre-commencement communications pursuant to Rule 13e-4(c) under the Exchange Act (17 CFR 240.13e-4(c))

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

Title of each class	**Trading Symbol(s)**	**Name of each exchange on which registered**
Common Stock, $0.0001 par value per share	**VERO**	**The Nasdaq Capital Market**

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

Emerging growth company ☐

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

Item 1.01. Entry into a Material Definitive Agreement.

Exchange Agreement

On May 24, 2024, Venus Concept Inc. (the "**Company**") and Venus Concept USA, Inc., a wholly-owned subsidiary of the Company ("**Venus USA**"), entered into an Exchange Agreement (the "**Exchange Agreement**") with Madryn Health Partners, LP ("**Madryn**") and Madryn Health Partners (Cayman Master), LP ("**Madryn Cayman**," and together with Madryn, the "**Lenders**"). Pursuant to the Exchange Agreement, the Lenders agreed to exchange (the "**Exchange**") $35,000,000 in aggregate principal amount outstanding under that certain Loan and Security Agreement (Main Street Priority Loan), dated December 8, 2020, among the Lenders, as lenders, and Venus USA, as borrower (as amended from time to time, the "**MSLP Loan Agreement**"), for (i) $17,142,009 in aggregate principal amount of new secured convertible notes of Venus USA to be issued under the MSLP Loan Agreement (the "**New Notes**") and (ii) 576,986 shares of newly-created convertible preferred stock of the Company, designated as "Series Y Convertible Preferred Stock" ("**Series Y Preferred Stock**"). The Exchange closed on May 24, 2024.

The shares of Series Y Preferred Stock issued in the Exchange were priced at $60.66 per share (the "**Issuance Price**"), being equal to the product of (i) the average closing price (as reflected on Nasdaq.com) of the Company's common stock ("**Common Stock**") for the five trading days immediately preceding date of the Exchange Agreement, multiplied by (ii) 100 (the "**Multiplication Factor**"). Under the Exchange Agreement, the Company is required to hold a special meeting of shareholders no later than December 31, 2024, or such later date as agreed by the parties, for the purpose of eliminating any limitations on the convertibility of the Series Y Preferred Stock under the rules and regulations of the Nasdaq Stock Market LLC ("**Nasdaq**"). The terms of the Series Y Preferred Stock are further described below under Item 5.03 of this Current Report on Form 8-K.

The Exchange Agreement contains customary representations, warranties and agreements by the Company, indemnification obligations of the Company, including for liabilities under the Securities Act of 1933, as amended (the "**Securities Act**"), and other obligations of the parties. The representations, warranties, and covenants contained in the Exchange Agreement were made only for purposes of such agreement and are made as of specific dates; are solely for the benefit of the parties (except as specifically set forth therein); may be subject to qualifications and limitations agreed upon by the parties in connection with negotiating the terms of the Exchange Agreement, including being qualified by confidential disclosures made for the purpose of allocating contractual risk between the parties, instead of establishing matters as facts; and may be subject to standards of materiality and knowledge applicable to the contracting parties that differ from those applicable to the investors generally. Investors should not rely on the representations, warranties, and covenants or any description thereof as characterizations of the actual state of facts or condition of the Company.

The shares of Series Y Preferred Stock issued in the Exchange, as well as the shares of Common Stock issuable upon conversion thereof, have not been registered under the Securities Act and may not be offered or sold in the United States absent registration or an exemption therefrom. To consummate the Exchange, the Company relied on the registration exemption provided by Section 3(a)(9) of the Securities Act. To effectuate conversions of the shares of Series Y Preferred Stock, the Company will rely on the private placement provided by Section 4(a)(2) of the Securities Act and by Rule 506 of Regulation D, promulgated by the U.S. Securities and Exchange Commission (the "**SEC**").

The foregoing description of the Exchange Agreement and the New Notes does not purport to be complete and is qualified in its entirety by reference to the full text of the Exchange Agreement and the form of New Note, copies of which are filed hereto as Exhibits 10.1 and 10.2, respectively.

Registration Rights Agreement

On May 24, 2024, as required by the Exchange Agreement, the Company and the Lenders entered into a resale registration rights agreement (the "**Registration Rights Agreement**"). Under the Registration Rights Agreement, the Company is required, among other things, to file a shelf resale registration statement with respect to the shares of Common Stock issuable upon conversion of the shares of Series Y Preferred Stock with the SEC within 60 days following the conversion of all of the issued and outstanding Series Y Preferred Stock into Common Stock. The Company also granted customary demand and piggyback registration right to the Lenders. The Registration Rights Agreement contains other terms and conditions customary for a transaction of this type.

The foregoing description of the Registration Rights Agreement does not purport to be complete and is qualified in its entirety by reference to the full text of the Registration Rights Agreement, a copy of which is filed hereto as Exhibit 10.3.

MSLP Loan Amendment

On May 24, 2024, as required by the Exchange Agreement, the Company, Venus USA, Venus Concept Canada Corp., a wholly-owned Canadian subsidiary of the Company ("**Venus Canada**"), and Venus Concept Ltd., a wholly-owned Israeli subsidiary of the Company ("**Venus Israel**"), entered into a Loan Amendment and Consent Agreement with Madryn and Madryn Cayman (the "**MSLP Loan Amendment**"). The MSLP Loan Amendment amended the MSLP Loan Agreement to, among other things, (i) modify the May 2024 and June 2024 interest payments to be payable-in-kind (i.e., added to the principal balance), (ii) grant certain relief from minimum liquidity requirements, (iii) and join or reaffirm, as applicable, the Company, Venus USA, Venus Canada and Venus Israel as guarantors and grantors of security under the MSLP Loan Agreement.

The foregoing description of the MSLP Loan Amendment does not purport to be complete and is qualified in its entirety by reference to the full text of the MSLP Loan Amendment, a copy of which is filed hereto as Exhibit 10.4.

Convertible Notes Amendment

On May 24, 2024, as required by the Exchange Agreement, the Company, Venus USA, Venus Canada and Venus Israel entered into an Amendment to Secured Subordinated Convertible Notes with the Lenders (the "**Convertible Notes Amendment**"). The Convertible Notes amended those certain Secured Subordinated Convertible Notes, dated October 4, 2023, issued by the Company to the Lenders (the "**Convertible Notes**") to, among other things, (i) align the covenant protections in favor of the Lenders under the Convertable Notes with the MSLP Loan Agreement and (ii) join or reaffirm, as applicable, the Company, Venus USA, Venus Canada and Venus Israel as guarantors and grantors of security with respect to the Convertible Notes.

The foregoing description of the Convertible Notes Amendment does not purport to be complete and is qualified in its entirety by reference to the full text of the Convertible Notes Amendment, a copy of which is filed hereto as Exhibit 10.5.

Bridge Loan Amendment

On May 24, 2024, as required by the Exchange Agreement, Venus USA, the Company, Venus Canada and Venus Israel entered into a Bridge Loan Amendment Agreement with the Lenders (the "**Bridge Loan Amendment**"). The Bridge Loan Amendment amended that certain Loan and Security Agreement, dated April 23, 2024, among Venus USA, as borrower, the Company, Venus Canada and Venus Israel, as guarantors, and the Lenders, as lenders (as amended from time to time, the "**Bridge Loan**"), to extend the maturity date of the Bridge Loan from May 26, 2024 to June 7, 2024.

The foregoing description of the Bridge Loan Amendment does not purport to be complete and is qualified in its entirety by reference to the full text of the Bridge Loan Amendment, a copy of which is filed hereto as Exhibit 10.6.

Item 3.02. Unregistered Sales of Equity Securities.

The information contained in Items 1.01 and 5.03 of this Current Report on Form 8-K is incorporated by reference into this Item 3.02.

Item 5.03. Amendment to Articles of Incorporation or Bylaws; Change in Fiscal Year.

Certificate of Designations of Series Y Preferred Stock

On May 24, 2024, the Company filed a Certificate of Designations with respect to the Series Y Preferred Stock (the "**Certificate of Designations**") with the Secretary of State of the State of Delaware, thereby creating the Series Y Preferred Stock. The Certificate of Designations authorizes the issuance of up to 600,000 shares of Series Y Preferred Stock.

The Series Y Preferred Stock is convertible into shares of Common Stock on a 1-for-100 basis (with 100 being equal to the Multiplication Factor used to determine the Issuance Price) (i) at the option of the holder, in whole or in part, at any time upon delivery of a valid conversion notice of the Company or (ii) automatically upon the Company completing an equity financing for Common Stock (or convertible preferred stock, provided that under such circumstances such financing will not be deemed completed until such preferred stock has been fully converted into Common Stock) that raises no less than $30,000,000 in gross proceeds, among other requirements as set forth in the Certificate of Designations. Notwithstanding the foregoing, the Series Y Preferred Stock is subject to limitations on convertibility to the extent necessary to comply with the rules and regulations of Nasdaq.

Each share of Series Y Preferred Stock carries a liquidation preference in an amount equal to the product of (i) the Issuance Price, multiplied by (ii) 2.0, which liquidation preference is senior to all other classes of outstanding capital stock, including the Common Stock, the Company's Series X convertible preferred stock, the Company's senior voting convertible preferred stock (the "**Senior Preferred Stock**") and the Company's junior voting convertible preferred stock (the "**Junior Preferred Stock**"). Such liquidation preference is subject to customary adjustment for any stock dividend, stock split, combination or similar recapitalization with respect to the Common Stock.

Each share of Series Y Preferred Stock is entitled to participate in dividends and other non-liquidating distributions, if, as and when declared by the Company's board of directors, on a *pari passu* basis with the Common Stock, Senior Preferred Stock and Junior Preferred Stock. Each share of Series Y Preferred Stock is entitled to participate in liquidating distributions on a *pari passu* basis with the Common Stock.

The Series Y Preferred Stock is non-voting. However, so long as any shares of Series Y Preferred Stock are outstanding, the Company will not, among other things, without the affirmative vote of the holders of a majority of the then-outstanding shares of the Series Y Preferred Stock, (a) increase the authorized number of shares of Series Y Preferred Stock; (b) enter any agreement, contract or understanding or otherwise incur any obligation which by its terms would violate or be in conflict in any material respect with, or significantly and adversely affect, the powers, rights or preferences of the Series Y Preferred Stock; (c) amend the Company's certificate of incorporation or bylaws, if such amendment would significantly and adversely alter, change or affect the powers, preferences or rights of the Series Y Preferred Stock; (d) create or issue (upon or conversion or otherwise) any class or series of capital stock that ranks senior to, or *pari passu* with, the Series Y Preferred Stock as to dividend or liquidation rights, or any debt securities convertible into, or exchangeable for, any such capital stock; (e) redeem, repurchase or declare or pay any dividend or other distribution on the Company's capital stock, subject to certain exceptions; (f) amend or waive any provision of the Certificate of Designations; or (g) in each case subject to the fiduciary duties of the Company's board of directors, (i) create or issue any debt security or permit any lien or security interest (except as incurred in the ordinary course of business), (ii) liquidate, dissolve or wind-up the business and affairs of the Company or effect any merger, consolidation, statutory conversion, transfer, domestication or continuance, (iii) file for or permit the filing of any bankruptcy, reorganization, receivership or other insolvency proceeding, (iv) create, or hold capital stock in, any subsidiary that is not wholly-owned by the Company, or permit any subsidiary to otherwise dispose of any capital stock of any direct or indirect subsidiary of the Company, or substantially all of the assets of such subsidiary or (v) effect a material acquisition, sale of assets, or change in the business of the Company.

The foregoing description of the Certificate of Designations does not purport to be complete and is qualified in its entirety by reference to the full text of the Certificate of Designations, a copy of which is filed hereto as Exhibit 3.1.

Item 7.01. Regulation FD Disclosure.

On May 28, 2024, the Company issued a press release regarding the Exchange and related transactions. A copy of the press release is furnished hereto as Exhibit 99.1 and is incorporated herein by reference.

The information contained in this Item 7.01, including Exhibit 99.1 incorporated by reference herein, shall not be deemed "filed" for purposes 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 incorporated by reference in any filing under the Securities or the Exchange Act, except as shall be expressly set forth by specific reference in such filing.

Item 8.01. Other Items.

Nasdaq Stockholders' Equity Requirement

As previously disclosed, on May 31, 2023, the Company received a written notice from the Listing Qualifications Department of Nasdaq (the "**Nasdaq Staff**") stating that the Company's stockholders' equity, as reported in the Company's Quarterly Report on Form 10-Q for the period ended March 31, 2023, was below the minimum $2.5 million requirement for continued listing under Nasdaq Listing Rule 5550(b)(1) (the "**Minimum Equity Requirement**").

On March 20, 2024, the Company received a decision from the Nasdaq Hearings Panel (the "**Panel**") granting the Company's request for continued listing on the Nasdaq Capital Market, subject to the Company demonstrating compliance with the Minimum Equity Requirement on or before May 28, 2024, among other conditions. The Company was further advised that May 28, 2024 represents the full extent of the Panel's discretion to grant continued listing while the Company is non-compliant with the Minimum Equity Requirement.

As a result of the Exchange, as of the date of this Current Report on Form 8-K, the Company believes it has stockholders' equity in excess of the Minimum Equity Requirement. However, Nasdaq has not yet determined whether the Company has regained compliance with the Minimum Equity Requirement, and until Nasdaq has determined that the Company is compliant with all applicable listing standards, there can be no assurance that the Common Stock will remain listed on the Nasdaq Capital Market.

Cautionary Statement Regarding Forward-Looking Statements

This Current Report on Form 8-K contains "forward-looking" statements within the meaning of Section 27A of the Securities Act and Section 21E of the Exchange Act. Any statements contained herein that are not of historical facts may be deemed to be forward-looking statements. In some cases, readers can identify these statements by words such as such as "anticipates," "believes," "plans," "expects," "projects," "future," "intends," "may," "should," "could," "estimates," "predicts," "potential," "continue," "guidance," and other similar expressions that are predictions of or indicate future events and future trends. These forward-looking statements include, but are not limited to, statements regarding whether the Exchange will serve to bring the Company into compliance with the Minimum Equity Requirement, potential conversions of the Series Y Preferred Stock and the Company's ability to comply with covenants under its debt instruments. These forward-looking statements are based on current expectations, estimates, forecasts, and projections about the Company's business and the industry in which the Company operates and management's beliefs and assumptions and are not guarantees of future performance or developments and involve known and unknown risks, uncertainties, and other factors that are in some cases beyond the Company's control. As a result, any or all of the Company's forward-looking statements in this Current Report on Form 8-K may turn out to be inaccurate. Factors that could materially affect the Company's business operations and financial performance and condition include, but are not limited to, general economic conditions and involve risks and uncertainties that may cause results to differ materially from those set forth in the statements and those risks and uncertainties described under Part I Item 1A—"Risk Factors" in the Company's Annual Report on Form 10-K for the fiscal year ended December 31, 2023 and under Part II Item 1A—"Risk Factors" in the Company's subsequently-filed Quarterly Reports on Form 10-Q. Readers are urged to consider these factors carefully in evaluating the forward-looking statements and are cautioned not to place undue reliance on the forward-looking statements. The forward-looking statements are based on information available to the Company as of the date of this Current Report on Form 8-K. Unless required by law, the Company does not intend to publicly update or revise any forward-looking statements to reflect new information or future events or otherwise.

Item 9.01. Financial Statements and Exhibits.

Exhibit No.	Description
3.1	Certificate of Designations of Series Y Convertible Preferred Stock
10.1	Exchange Agreement, dated May 24, 2024, by and among Venus Concept Inc., Venus Concept USA Inc., Madryn Health Partners, LP and Madryn Health Partners (Cayman Master), LP
10.2	Form of Promissory Note, dated May 24, 2024, of Venus Concept USA Inc.
10.3	Registration Rights Agreement, dated May 24, 2024, by and among Venus Concept Inc., Madryn Health Partners, LP and Madryn Health Partners (Cayman Master), LP
10.4	Loan Amendment and Consent Agreement, dated May 24, 2024, by and among Venus Concept Inc., Venus Concept USA Inc., Venus Concept Ltd., Madryn Health Partners, LP and Madryn Health Partners (Cayman Master), LP
10.5	Amendment to Secured Subordinated Convertible Notes, dated May 24, 2024, by and among Venus Concept Inc., Venus Concept USA Inc., Venus Concept Ltd., Madryn Health Partners, LP and Madryn Health Partners (Cayman Master), LP
10.6	Bridge Loan Amendment Agreement, dated May 24, 2024, by and among Venus Concept Inc., Venus Concept USA Inc., Venus Concept Ltd., Madryn Health Partners, LP and Madryn Health Partners (Cayman Master), LP
99.1	Press release, dated May 28, 2024
104	Cover Page Interactive Data File (embedded within the Inline XBRL document)

SIGNATURES

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

VENUS CONCEPT INC.

Date: May 28, 2024

By: /s/ Domenic Della Penna
Domenic Della Penna
Chief Financial Officer

Exhibit 3.1

CERTIFICATE OF DESIGNATIONS OF
SERIES Y CONVERTIBLE PREFERRED STOCK OF
VENUS CONCEPT INC.

Venus Concept Inc., a corporation organized and existing under the General Corporation Law of the State of Delaware (the "**Corporation**"), hereby certifies that the following resolution was adopted on May 24, 2024 by the Board of Directors of the Corporation (the "**Board**"), as required by Section 151 of the General Corporation Law of the State of Delaware:

RESOLVED, that pursuant to the authority granted to and vested in the Board in accordance with the Certificate of Incorporation of the Corporation, the Board hereby creates a series of preferred stock, par value $0.0001 per share, of the Corporation designated as Series Y Convertible Preferred Stock (the "**Series Y Preferred**"), and hereby states the designation and number of shares, and fixes the relative rights, preferences and limitations thereof as follows:

ARTICLE I
DEFINITIONS

As used in this Certificate of Designations, the following terms shall have the meanings set forth below:

"**Affiliate**" of any specified Person means any other Person directly or indirectly controlling or controlled by or under direct or indirect common control with such specified Person. For the purposes of this definition, "control" when used with respect to any specified Person, means the power to direct the management and policies of such Person, directly or indirectly, whether through the ownership of Voting Securities, by contract or otherwise; and the terms "controlling" and "controlled" have meanings correlative to the foregoing.

"**Business Day**" means any day other than a Saturday or Sunday, a legal holiday or any other day on which the Securities and Exchange Commission remains closed.

"**Capital Stock**" means any and all shares, interests, rights to purchase, warrants, options, participations or other equivalents of or interests in (however designated) stock issued by the Corporation or any of its subsidiaries, but excluding any debt securities convertible into or exchangeable for any securities otherwise constituting Capital Stock pursuant to this definition.

"**Common Stock**" means the common stock of the Corporation, par value $0.0001 per share, or any other capital stock of the Corporation into which such common stock shall be reclassified or changed.

"**Conversion Agent**" means the Transfer Agent acting in its capacity as conversion agent for the shares of the Series Y Preferred, and its successors and assigns.

"**Conversion Date**" means, with respect to any share of Series Y Preferred, the date on which such share of Series Y Preferred has been converted hereunder.

"**Conversion Share**" means any share of Common Stock issued or issuable upon conversion of any Series Y Preferred.

"**Converted Stock Equivalent Amount**" means, for each share of Series Y Preferred, 100 shares of Common Stock, subject to adjustment herein.

"**Exchange Agreement**" means that certain Exchange Agreement, dated as of May 24, 2024, by and between the Corporation and the parties identified on the signature pages thereto.

"**Holder**" means the Person in whose name shares of the Series Y Preferred are registered, which may be treated by the Corporation, Transfer Agent, paying agent and Conversion Agent as the absolute owner of such shares of Series Y Preferred for the purpose of making payment and settling the related conversions and for all other purposes.

"**Issuance Date**" means May 24, 2024, being the date on which the Holders initially acquired shares of Series Y Preferred under the Exchange Agreement.

"**Issuance Price**" means $60.66, subject to appropriate adjustment in the event of any stock dividend, stock split, combination or other similar recapitalization with respect to the Common Stock.

"**Junior Preferred**" means the voting convertible preferred stock of the Corporation, par value $0.0001 per share.

"**Junior Preferred Certificate of Designations**" means the Certificate of Designations with respect to the Junior Preferred, dated November 17, 2022, as amended from time to time.

"**Liquidation Event**" means, whether in a single transaction or series of related transactions, any voluntary or involuntary liquidation, dissolution or winding up of the affairs of the Corporation or its subsidiaries, the assets of which constitute all or substantially all of the assets of the business of the Corporation and its subsidiaries, taken as a whole.

"**Liquidation Preference**" means, for any share of Series Y Preferred at any time, an amount equal to the product of the Issuance Price, multiplied by 2.0.

"**Mandatory Conversion**" means a mandatory conversion of shares of Series Y Preferred pursuant to Article II, Section 4(b).

"**Mandatory Conversion Notice**" means a notice substantially in the form of the "Mandatory Conversion Notice" set forth in Exhibit B.

"**Mandatory Conversion Trigger**" means the Corporation's completion of an equity financing after May 24, 2024 that satisfies the following conditions: (a) no less than $30,000,000 in gross cash proceeds is raised in such equity financing; (b) the Corporation issues in such equity financing (i) Common Stock or (ii) preferred stock that is convertible into Common Stock; and (c) upon (i) the completion of such equity financing (in the case of an equity financing in which the Company issues Common Stock) or (ii) the conversion of all of such preferred stock (in the case of an equity financing in which the Corporation issues preferred stock), the Holders and their Affiliates beneficially own (as defined in Rule 13d-3 of the Securities Exchange Act of 1934, as amended) at least as much Common Stock as has been purchased in such equity financing. For greater clarity, if such equity financing is for preferred stock, a Mandatory Conversion Trigger shall not be deemed to have occurred until all of such preferred has been converted into Common Stock. Notwithstanding the foregoing, if an Exchange Cap is in place upon the occurrence of the Mandatory Conversion Trigger, the Mandatory Conversion Trigger shall be tolled and shall not be deemed to occur until such time as the Exchange Cap is no longer in effect.

"**Optional Conversion**" means an optional conversion of Series Y Preferred pursuant to Article II, Section 4(a).

"**Optional Conversion Notice**" means a notice substantially in the form of the "Optional Conversion Notice" set forth in Exhibit A.

"**Organic Change**" means any recapitalization, reorganization, reclassification, consolidation, merger, sale of all or substantially all of the Corporation's assets, exchange or tender offer by the Corporation or any of its subsidiaries, or other transaction, in each case which is effected in such a manner that the holders of Common Stock are entitled to receive (either directly or upon subsequent liquidation and whether automatically or at their election) stock, securities or assets with respect to or in exchange for Common Stock; *provided, however,* that an Organic Change shall not include any transaction that constitutes a Change of Control.

"**Person**" means a legal person, including any individual, corporation, estate, partnership, joint venture, association, joint-stock company, limited liability company or trust.

"**Securities Act**" means the Securities Act of 1933, as amended.

"**Senior Preferred**" means the senior convertible preferred stock of the Corporation, par value $0.0001 per share.

"**Senior Preferred Certificate of Designations**" means the Certificate of Designations with respect to the Senior Preferred, dated May 15, 2023, as amended from time to time.

"**Senior Stock**" means any class or series of capital stock of the Corporation the terms of which expressly provide that such class or Series will rank senior to the Series Y Preferred as to dividend rights or as to rights on liquidation, dissolution or winding up of the Corporation (in each case, without regard to whether dividends accrue cumulatively or non-cumulatively).

"**Series X Preferred**" means the Series X convertible preferred stock of the Corporation, par value $0.0001 per share.

"**Series X Preferred Certificate of Designations**" means the Certificate of Designations with respect to the Series X Preferred, dated October 4, 2024, as amended from time to time.

"**Trading Market**" means whichever of the NYSE American, New York Stock Exchange, the Nasdaq Global Market, the Nasdaq Capital Market, Nasdaq Global Select Market or such other United States registered national securities exchange on which the Common Stock is listed or quoted for trading on the date in question.

"**Transfer Agent**" means the Corporation acting as transfer agent, registrar, paying agent and Conversion Agent for the Series Y Preferred and its successors and assigns.

"**Transfer**" means any sale, transfer, assignment or other disposition (including by merger, reorganization, operation of law or otherwise).

"**Unpaid Liquidation Preference**" means, for any share of Series Y Preferred at any time, an amount equal to the excess, if any, of (a) the Liquidation Preference with respect to such share of Series Y Preferred as of such time, over (b) the aggregate amount of all distributions made in respect of such share of Series Y Preferred pursuant to Article II, Section 3(a)(i) as of such time.

"**Voting Securities**" means capital stock of the Corporation that is then entitled to vote generally in the election of directors of the Corporation.

ARTICLE II
SERIES Y PREFERRED

1. **Designation and Number of Shares**. There shall be a series of preferred stock designated "Series Y Convertible Preferred Stock." The number of authorized shares of Series Y Preferred shall be 600,000. The Series Y Preferred will initially be issued in book entry form.

2. **Dividends**.

(a) General. Each Holder shall be entitled to receive, with respect to the shares of Series Y Preferred held by such Holder, if, as and when declared by the Board or any duly authorized committee thereof, but only out of assets legally available therefor, dividends or distributions of the same amount, in an identical form of consideration and at the same time, as those dividends or distributions that would have been payable on the number of shares of Common Stock equal to the product of the Converted Stock Equivalent Amount and the number of such shares of Series Y Preferred (rounding any fractional shares resulting from such computation to the nearest whole number) such that no holder of Common Stock shall receive a dividend or distribution unless equivalent dividends or distributions (as described above) are also made to each share of Series Y Preferred, taking into account any adjustment to the Converted Stock Equivalent Amount as provided herein; *provided, however,* that the foregoing shall not apply to any dividend or distribution payable in shares of Common Stock that results in an adjustment in the Converted Stock Equivalent Amount as provided herein. Notwithstanding anything to the contrary set forth in this Article II, Section 2(a), if any dividend or distribution is payable in rights or warrants to subscribe for Common Stock or purchase Common Stock pursuant to a conversion feature in a debt or equity security, the corresponding dividend or distribution payable on the Series Y Preferred shall consist of an identical right or warrant, except that such right or warrant shall be a right or warrant to subscribe for a number of shares of Series Y Preferred equivalent to the number of shares of Common Stock that would otherwise be subject to such right or warrant (i.e., taking into account the Converted Stock Equivalent Amount). Each declared dividend or distribution under this Article II, Section 2(a) shall be payable to the holders of record of Series Y Preferred at the same time as dividends or distributions are payable to the holders of record of Common Stock.

(b) Priority of Dividends. All dividends payable on the Series Y Preferred shall rank junior with regard to dividends on the Senior Stock, including the Series X Preferred. All dividends payable on the Series Y Preferred shall have the same priority with regard to dividends on the Common Stock, the Junior Preferred and the Senior Preferred (i.e., all such dividends shall be declared and paid in accordance with Article II, Section 2(a) above).

3. **Liquidation Rights**.

(a) Liquidation. In the event of a Liquidation Event, after payment or provision for payment of the debts and other liabilities of the Corporation and after any payment of the prior preferences and other rights of any Senior Stock shall have been made or irrevocably set apart for payment, the assets of the Corporation legally remaining available for distribution to the Corporation's shareholders shall be distributed in accordance with the following priority:

(i) first, to the Holders, in proportion to the aggregate Unpaid Liquidation Preference in respect of all shares of Series Y Preferred held by the Holders, until the aggregate Unpaid Liquidation Preference in respect of all shares of Series Y Preferred held by the Holders has been reduced to zero;

(ii) second, to the holders of Series X Preferred, in proportion to the aggregate Unpaid Liquidation Preference (as defined in the Series X Preferred Certificate of Designation) in respect of all shares of Series X Preferred held by such holders, until the aggregate Unpaid Liquidation Preference (as defined in the Series X Preferred Certificate of Designation) in respect of all shares of Series X Preferred held by such holders has been reduced to zero;

(iii) third, to the holders of Senior Preferred, in proportion to the aggregate Unpaid Liquidation Preference (as defined in the Senior Preferred Certificate of Designation) in respect of all shares of Senior Preferred held by such holders, until the aggregate Unpaid Liquidation Preference (as defined in the Senior Preferred Certificate of Designation) in respect of all shares of Senior Preferred held by such holders has been reduced to zero;

(iv) fourth, to the holders of Junior Preferred, in proportion to the aggregate Unpaid Liquidation Preference (as defined in the Junior Preferred Certificate of Designation) in respect of all shares of Junior Preferred held by such holders, until the aggregate Unpaid Liquidation Preference (as defined in the Junior Preferred Certificate of Designation) in respect of all shares of Junior Preferred held by such holders has been reduced to zero; and

(v) thereafter, pro rata among (A) the holders of Common Stock and the Holders, in proportion to their holdings of Common Stock (with each Holder being deemed to hold, with respect to the shares of Series Y Preferred held by such Holder, such number of shares of Common Stock equal to the product of the Converted Stock Equivalent Amount and the number of shares of Series Y Preferred held by such Holder (rounding any fractional shares resulting from such computation to the nearest whole number)), and (B) the holders of any other securities of the Corporation having the right to participate in such distributions upon the occurrence of a Liquidation Event, in accordance with the respective terms thereof.

(b) Change of Control. In the event of (i) a merger or consolidation of the Corporation with any other corporation or other entity that results in the inability of the shareholders of the Corporation immediately preceding such merger or consolidation to designate or elect a majority of the board of directors (or its equivalent) of the resulting entity or its parent company, including any such merger or consolidation in which the Holders receive cash, securities or other property for their shares, or (ii) the sale, lease or exchange (for cash, securities or other property) of all or substantially all of the assets of the Corporation to a third party purchaser ((i) or (ii), a "**Change of Control**"), any cash, securities or other property payable to the shareholders of the Corporation in or as a consequence of such Change of Control (including from release of escrow, earn outs, deferred purchase price or other similar payments following the consummation of the Change of Control) will be apportioned and distributed in accordance with Article II, Section 3(a) above until such time as each preference stated in Article II, Section 3(a) above has been paid in full in the order of priority stated in Article II, Section 3(a) above. For such purposes, any non-cash consideration will be valued at the purchase price that a willing buyer having all relevant knowledge would pay a willing seller for such asset in an arm's length transaction. The Corporation shall not have the power to effect a Change of Control unless the agreement or plan of merger or consolidation for such transaction provides that the consideration payable to the Holders in such Change of Control shall be paid in accordance with this Article II, Section 3(b). In the event that holders of Common Stock have the option to elect the form of consideration to be received in a Change of Control, the Holders shall have the same election privileges as the holders of Common Stock.

4. **Conversion**.

(a) Optional Conversion. Subject to Section 4(e) below, each Holder may, at any time and in its sole discretion, elect that all, or any whole number of shares that is less than all, of their shares of Series Y Preferred be converted pursuant to an Optional Conversion, in which case each share of Series Y Preferred subject to such Optional Conversion shall be converted into a number of Conversion Shares equal to the Converted Stock Equivalent Amount; *provided, however,* that cash will be paid in lieu of fractional shares pursuant to Article III, Section 7. Effective immediately prior to the close of business on the applicable Conversion Date, such Series Y Preferred shall not be deemed outstanding for any purpose, and such converting Holders shall have no rights with respect to such shares of Series Y Preferred, rather only the right to receive the applicable Conversion Shares. Notwithstanding the foregoing, a Holder delivering an Optional Conversion Notice hereunder in connection with an Organic Change may specify in such Optional Conversion Notice that its election to effect such Optional Conversion is contingent upon the consummation of such Organic Change, in which case such Optional Conversion shall not occur until such time as is immediately prior to (and subject to) the consummation of such Organic Change, and if such Organic Change is not consummated, such Optional Conversion Notice shall be deemed to be withdrawn. To convert any share of Series Y Preferred under this Article II, Section 4(a), the Holder of such share must (i) complete, sign and deliver to the Corporation an Optional Conversion Notice; (ii) deliver physical certificate(s), if any, representing such Series Y Preferred to the Corporation (at which time such conversion will become irrevocable); (iii) furnish any endorsements and transfer documents that the Corporation may require; and (iv) if applicable, pay any documentary or other taxes.

(b) Mandatory Conversion. Upon the occurrence of the Mandatory Conversion Trigger, all (but not less than all) of the outstanding shares of Series Y Preferred shall automatically be converted pursuant to a Mandatory Conversion, in which case each share of Series Y Preferred shall be converted into a number of Conversion Shares equal to the Converted Stock Equivalent Amount; provided, however, that cash will be paid in lieu of fractional shares pursuant to Article III, Section 7. Effective immediately prior to the close of business on the applicable Conversion Date, such Series Y Preferred shall not be deemed outstanding for any purpose, and such converting Holders shall have no rights with respect to such shares of Series Y Preferred, rather only the right to receive the applicable Conversion Shares. The Corporation will send the Mandatory Conversion Notice to each Holder that holds shares of Series Y Preferred that are subject to such Mandatory Conversion Trigger promptly following the Conversion Date. In connection with any Mandatory Conversion, each Holder hereby covenants and agrees to (i) deliver physical certificate(s), if any, representing the applicable shares of Series Y Preferred to the Corporation; (ii) furnish any endorsements and transfer documents that the Corporation may require; and (iii) if applicable, pay any documentary or other taxes.

(c) Conversion Procedures. Upon the physical surrender of the certificate representing a share of Series Y Preferred converted hereunder, if any, to the Corporation, the Corporation will, or will cause the Transfer Agent to, issue and deliver a new certificate, registered as the converting Holder may request, subject to applicable securities laws, representing the aggregate number of Conversion Shares issued upon conversion of such shares of Series Y Preferred (*provided, however,* that, if the transfer agent for the Conversion Shares is participating in The Depository Trust Corporation ("**DTC**") Fast Automated Securities Transfer Program and the transferee is eligible to receive shares through DTC, such transfer agent shall instead credit such number of full Conversion Shares to such transferee's balance account with DTC through its Deposit/Withdrawal at Custodian system). Promptly following the applicable Conversion Date, but not later than the earlier of (i) two (2) trading days and (ii) the number of trading days comprising the Standard Settlement Period (as defined below) after the Conversion Date (the "**Share Delivery Date**"), the Corporation shall deliver, or cause to be delivered, to the Holders the number of Conversion Shares to be issued upon the conversion of the Series Y Preferred. When delivering the Conversion Shares as provided herein, the Corporation shall use commercially reasonable efforts to deliver the Conversion Shares required to be delivered by the Corporation under this Article II, Section 4(c) through the Corporation's transfer agent, unless otherwise agreed to with the Holders. As used herein, "**Standard Settlement Period**" means the standard settlement period, expressed in a number of trading days, on the Trading Market as of the Conversion Date.

(d) Certificates for Remaining Series Y Preferred. In the event that less than all of the shares of Series Y Preferred are converted hereunder, the Corporation shall promptly issue a new certificate (if the Series Y Preferred are then certificated) registered in the name of the Holder representing such remaining shares of Series Y Preferred not subject to such conversion.

(e) Exchange Cap. Notwithstanding any provision of this Certificate of Designations to the contrary, the Corporation shall not issue any shares of Common Stock upon conversion of any shares of Series Y Preferred or otherwise pursuant to the terms of this Certificate of Designations if the issuance of such shares of Common Stock would exceed the aggregate number of shares of Common Stock which the Corporation may issue upon conversion of the Series Y Preferred without breaching the Corporation's obligations under the rules and regulations of the Trading Market (the maximum number of shares of Common Stock which may be issued without violating such rules and regulations, the "**Exchange Cap**"); *provided, however,* that the foregoing limitation shall not apply in the event that the Corporation (i) obtains the approval of its shareholders as required by the applicable rules and regulations of the Trading Market for issuances of shares of Common Stock in excess of such amount or (ii) obtains a written opinion from outside counsel to the Corporation that such approval is not required, which opinion shall be reasonably satisfactory to the Required Holders (as defined in Article II, Section 5(b)). Until such approval or such written opinion is obtained, no Holder shall be issued in the aggregate, upon conversion of any shares of Series Y Preferred, shares of Common Stock in an amount greater than the product of (A) the Exchange Cap, multiplied by (B) the quotient of (1) the aggregate number of shares of Series Y Preferred initially acquired by such Holder under the Exchange Agreement, divided by (2) the aggregate number of shares of Series Y Preferred initially acquired by all Holders under the Exchange Agreement (with respect to each Holder, the "**Exchange Cap Allocation**"). In the event that any Holder shall sell or otherwise Transfer any of such Holder's shares of Series Y Preferred, the Transferee shall be allocated a pro rata portion of such Holder's Exchange Cap Allocation with respect to such portion of such shares of Series Y Preferred so Transferred, and the restrictions of the prior sentence shall apply to such Transferee with respect to the portion of the Exchange Cap Allocation so allocated to such Transferee. Upon conversion in full of a Holder's shares of Series Y Preferred, the difference (if any) between such Holder's Exchange Cap Allocation and the number of shares of Common Stock actually issued to such Holder upon such Holder's conversion in full of such shares of Series Y Preferred shall be allocated, to the respective Exchange Cap Allocations of the remaining Holders on a pro rata basis in proportion to the shares of Common Stock underlying the shares of Series Y Preferred then held by each such Holder.

(f) Legend. Every certificate representing shares of Series Y Preferred shall bear a legend on the face thereof providing as follows:

"The shares of Series Y Preferred Stock represented by this certificate are subject to provisions with respect to, including requirements for, conversion, sale, assignment or other transfer as set forth in Article II, Section 4 of the Certificate of Designations of Series Y Preferred Stock."

(g) No Responsibility of the Corporation. In connection with any conversion or Transfer of shares of Series Y Preferred pursuant to or as permitted hereunder, (i) the Corporation shall be under no obligation to make any investigation of facts, and (ii) except as otherwise required by law, neither the Corporation nor any director, officer, employee or agent of the Corporation shall be liable in any manner for any action taken or omitted in good faith in connection with the registration of the issuance of Conversion Shares in connection with any such conversion or the registration of any such Transfer.

5. **Voting Rights**.

(a) General. The Holders shall be entitled to notice of all stockholder meetings at which holders of Common Stock shall be entitled to vote; *provided, however,* that notwithstanding any such notice, except as required by applicable law or as expressly set forth herein, the Holders shall not be entitled to vote on any matter presented to the stockholders of the Corporation for their action or consideration.

(b) Approval Rights. In addition to any approval rights that may be required by applicable law, the consent of the Holders representing a majority of the number of shares of Common Stock into which the outstanding shares of Series Y Preferred are convertible (assuming for this purpose that each share of Series Y Preferred is convertible into the Converted Stock Equivalent Amount) (the "**Required Holders**"), given in person or by proxy, either in writing or by vote, at a special or annual meeting, voting or consenting as a separate class, shall be necessary to:

(i) increase the authorized number of shares of Series Y Preferred;

(ii) enter any agreement, contract or understanding or otherwise incur any obligation which by its terms would violate or be in conflict in any material respect with, or materially and adversely affect, the powers, rights or preferences of the Series Y Preferred designated hereunder;

(iii) amend the Certificate of Incorporation or By-laws of the Corporation, if such amendment would materially and adversely alter, change or affect the powers, preferences or rights of the Holders;

(iv) create any class or series of, or issue any shares of (upon or as a result of conversion or otherwise), (A) Senior Stock, (B) capital stock of the Corporation the terms of which expressly provide that such class or Series will rank *pari passu* with the Series Y Preferred as to dividend rights or as to rights on liquidation, dissolution or winding up of the Corporation or (C) debt securities convertible into, or exchangeable for, any such equity securities described in the foregoing clauses (A) or (B);

(v) cause the Corporation or any of its subsidiaries to, directly or indirectly, redeem, repurchase or declare or pay any dividend or other distribution (whether in cash, stock, property or otherwise) on any Capital Stock (*provided, however,* that no consent of the Required Holders shall be required pursuant to this Article II, Section 5(b)(v) with respect to any redemption, repurchase, payment or other action that the Corporation is required to undertake pursuant to any agreement or instrument in effect on the date hereof and filed by the Corporation with the Securities and Exchange Commission (for the avoidance of doubt, disregarding any amendments or modifications made to any such agreements or instruments after the date hereof));

(vi) amend or waive any provision of this Certificate of Designations applicable to the Holders or the Series Y Preferred;

(vii) in each case subject to the exercise of the fiduciary duties of the Board:

(A) create or issue any debt security, create any lien or security interest (except as incurred in the ordinary course of business), or incur other indebtedness, including obligations and contingent obligations under guarantees, or permit any subsidiary to take any such action with respect to any debt security, lien, security interest or other indebtedness;

(B) liquidate, dissolve or wind-up the business and affairs of the Corporation or effect any merger, consolidation (for the avoidance of doubt, other than a reverse split of the Common Stock), statutory conversion, transfer, domestication or continuance;

(C) file for or permit the filing of any bankruptcy, reorganization, receivership or other insolvency proceeding;

(D) create, or hold capital stock in, any subsidiary that is not wholly-owned (either directly or through one or more other subsidiaries) by the Corporation, or permit any subsidiary to create, or issue or obligate itself to issue, any shares of any class or series of capital stock, or sell, transfer or otherwise dispose of any capital stock of any direct or indirect subsidiary of the Corporation, or permit any direct or indirect subsidiary to sell, lease, transfer, exclusively license or otherwise dispose (in a single transaction or series of related transactions) of all or substantially all of the assets of such subsidiary; or

(E) effect a material acquisition, sale of assets, or change in the business of the Corporation.

(c) Action by Written Consent. Any action, including any vote required or permitted to be taken at any annual or special meeting of shareholders of the Corporation, that requires a separate vote of the Holders voting as a single class may be taken by such Holders without a meeting, without prior notice and without a vote, if a consent or consents in writing or electronic transmission, setting forth the action so taken, shall be given by such Holders having not less than the minimum number of votes that would be necessary to authorize or take such action at a meeting at which all shares of Series Y Preferred entitled to vote thereon were present and voted and shall be delivered to the Corporation by delivery to the Corporate Secretary of the Corporation at its principal executive office.

6. **Subdivision; Stock Splits; Combinations**. The Corporation shall not at any time subdivide (by any stock split, stock dividend, recapitalization or otherwise) its outstanding shares of Series Y Preferred into a greater number of shares, or combine (by combination, reverse stock split or otherwise) its outstanding shares of Series Y Preferred into a smaller number of shares.

7. **Certain Adjustments**.

(a) Stock Dividends and Stock Splits. If, at any time while shares of Series Y Preferred are outstanding, the Corporation subdivides or splits its outstanding Common Stock, including by way of a dividend or distribution of Common Stock, or combines its outstanding Common Stock into a lesser number of shares, then the Converted Stock Equivalent Amount with respect to such issued and outstanding shares of Series Y Preferred shall be adjusted as if such action applied to the shares of Common Stock represented by the Converted Stock Equivalent Amount. Any adjustment made pursuant to this Article II, Section 7(a) shall become effective immediately after the record date for the determination of stockholders entitled to receive such dividend or distribution and shall become effective immediately after the effective date in the case of a subdivision, combination or re-classification.

(b) Organic Change. Notwithstanding any provision of this Certificate of Designations to the Contrary, if there occurs an Organic Change, as a result of which the Common Stock is converted into, or is exchanged for, or represents solely the right to receive, other securities, cash or other property, or any combination of the foregoing ("**Reference Property**" and the amount and kind of Reference Property that a holder of one (1) share of Common Stock would be entitled to receive on account of such Organic Change (without giving effect to any arrangement not to issue or deliver a fractional portion of any security or other property), a "**Reference Property Unit**")), then, from and after the effective time of such Organic Change, each share of Series Y Preferred will remain outstanding and, thereafter, (i) the consideration due upon conversion of any Series Y Preferred will be determined in the same manner as if each reference to any number of shares of Common Stock in this Certificate of Designations, including in any related definitions, were instead a reference to the same number of Reference Property Units, and (ii) if necessary, any other provisions of this Certificate of Designations shall be equitably adjusted by the Board acting in good faith in order to preserve, as nearly the same as practicable, the economic interests of the Holders under this Certificate of Designations. On or before any such Organic Change, the Corporation (and, if applicable, any third party that is party to such Organic Change) will execute supplemental instruments, if any, as the Board reasonably determines are necessary or desirable to give effect of this Article II, Section 7(b). In the event that holders of Common Stock have the option to elect the form of consideration to be received in an Organic Change, the Holders shall have the same election privileges as the holders of Common Stock.

(c) Notice of Adjustment. Whenever an adjustment is made pursuant to this Article II, Section 7, the Corporation shall promptly deliver to each Holder a notice setting forth the Converted Stock Equivalent Amount after such adjustment, together with a brief explanation of the facts requiring such adjustment.

ARTICLE III
MISCELLANEOUS

1. **Unissued or Reacquired Shares**. Shares of Series Y Preferred that have been issued and converted, redeemed or otherwise purchased or acquired by the Corporation shall be retired upon their acquisition, shall not be reissued as shares of Series Y Preferred, and, upon the taking of any action required by law, shall be restored to the status of authorized but unissued shares of preferred stock of the Corporation without designation as to series.

2. **No Sinking Fund**. Shares of Series Y Preferred are not subject to the operation of a sinking fund.

3. **Reservation of Common Stock**.

(a) Sufficient Shares. The Corporation shall at all times reserve and keep available out of its authorized and unissued Common Stock or shares acquired by the Corporation, solely for issuance upon the conversion of shares of Series Y Preferred as provided in this Certificate of Designations to holders of such Series Y Preferred, free from any preemptive or other similar rights, such number of shares of Common Stock as shall from time to time be issuable upon the conversion of all the shares of Series Y Preferred then outstanding.

(b) Use of Acquired Shares. Notwithstanding the foregoing, the Corporation shall be entitled to deliver upon conversion of shares of Series Y Preferred, as provided herein, shares of Common Stock acquired by the Corporation and held as treasury shares (in lieu of the issuance of authorized and unissued shares of Common Stock), so long as any such acquired shares are free and clear of all liens, charges, security interests or encumbrances (other than liens, charges, security interests and other encumbrances created by the Holders).

(c) Free and Clear Delivery. All shares of Common Stock delivered upon conversion of the Series Y Preferred, shall, upon issuance, be duly authorized, validly issued, fully paid and non-assessable, free and clear of all liens, claims, security interests and other encumbrances (other than liens, charges, security interests and other encumbrances created by the Holders).

(d) Compliance with Law. Prior to the delivery of any securities that the Corporation shall be obligated to deliver upon conversion of the Series Y Preferred, the Corporation shall use its reasonable best efforts to comply with any federal and state laws and regulations thereunder requiring the registration of such securities with, or any approval of or consent to the delivery thereof by, any governmental authority.

(e) Listing. The Corporation hereby covenants and agrees that, if at any time the Common Stock shall be traded on the Nasdaq Global Market, Nasdaq Capital Market or any other national securities exchange, the Corporation will, if permitted by the rules of such exchange, list and keep listed, so long as the Common Stock shall be so listed on such exchange, all the Common Stock issuable upon conversion of the Series Y Preferred; *provided, however,* that if the rules of such exchange require the Corporation to defer the listing of such Common Stock until the first conversion of Series Y Preferred into Common Stock in accordance with the provisions hereof, the Corporation covenants to list such Common Stock issuable upon conversion of the Series Y Preferred in accordance with the requirements of such exchange at such time.

4. **Transfer Agent, Conversion Agent and Paying Agent**. The duly appointed Transfer Agent, Conversion Agent and paying agent for the Series Y Preferred shall be the Corporation. The Corporation may appoint a successor transfer agent that shall accept such appointment prior to the effectiveness of such removal. Upon any such appointment, the Corporation shall send notice thereof to the Holders.

5. **Mutilated, Destroyed, Stolen and Lost Certificates**. If physical certificates are issued, the Corporation shall replace any mutilated certificate at the Holder's expense upon surrender of that certificate to the Transfer Agent. The Corporation shall replace any certificate that becomes destroyed, stolen or lost, at the Holder's expense, upon delivery to the Corporation and the Transfer Agent of satisfactory evidence that the certificate has been destroyed, stolen or lost, together with any indemnity and bond that may be required by the Transfer Agent or the Corporation.

6. **No Closing of Books; Cooperation**. The Corporation shall not close its books against the transfer of Series Y Preferred or of Common Stock issued or issuable upon conversion of Series Y Preferred in any manner which interferes with the timely conversion of Series Y Preferred. The Corporation shall assist and cooperate with any Holder required to make any governmental filings or obtain any governmental approval prior to or in connection with any conversion of Series Y Preferred hereunder (including making any governmental filings required to be made by the Corporation).

7. **Cash In Lieu of Fractional Interests**. If any fractional interest in a share of capital stock would, except for the provisions of this Article III, Section 7, be delivered upon any conversion of the Series Y Preferred, the Corporation, in lieu of delivering the fractional share therefor, shall pay an amount to the holder thereof equal to the market value of such fractional interest as of the date of conversion.

8. **Taxes**.

(a) Transfer Taxes. The Corporation shall pay any and all stock transfer, documentary, stamp and similar taxes that may be payable in respect of any issuance or delivery of shares of Series Y Preferred or shares of Common Stock or other securities issued on account of Series Y Preferred pursuant hereto or certificates representing such shares or securities; *provided, however,* that the Corporation shall not be required to pay any such tax that may be payable in respect of any transfer involved in the issuance or delivery of shares of Series Y Preferred, shares of Common Stock or other securities in a name other than that in which the shares of Series Y Preferred with respect to which such shares or other securities are issued or delivered were registered, or in respect of any payment to any Person other than a payment to the registered holder thereof, and shall not be required to make any such issuance, delivery or payment unless and until the Person otherwise entitled to such issuance, delivery or payment has paid to the Corporation the amount of any such tax or has established, to the satisfaction of the Corporation, that such tax has been, or will be, paid or is not payable.

(b) Withholding. All payments and distributions (or deemed distributions) on the shares of Series Y Preferred (and on the shares of Common Stock received upon their conversion) shall be subject to withholding and backup withholding of tax to the extent required by law, subject to applicable exemptions, and amounts withheld, if any, shall be treated as received by the Holders.

9. **Notices**. All notices referred to in this Certificate of Designations shall be in writing, and, unless otherwise specified herein, all notices hereunder shall be deemed to have been given: (a) upon receipt, when delivered personally; (b) one Business Day after deposit with an overnight courier service; or (c) three Business Days after the mailing thereof if sent by registered or certified mail (unless first class mail shall be specifically permitted for such notice under the terms of this Certificate of Designations) with postage prepaid, in each case addressed: (i) if to the Corporation, to its office at 235 Yorkland Blvd., Suite 900, Toronto, Ontario, Canada, M2J 4Y8 (Attention: General Counsel and Corporate Secretary), or (ii) if to any Holder, to such Holder at the address of such Holder as listed in the stock record books of the Corporation (which may include the records of the Transfer Agent) or (iii) to such other address as the Corporation or any such Holder, as the case may be, shall have designated by notice similarly given.

[no further text on this page]

IN WITNESS WHEREOF, Venus Concept Inc. has caused this Certificate of Designations to be executed by its duly authorized officer on and as of this 24th day of May, 2024.

VENUS CONCEPT INC.

By: */s/ Rajiv De Silva*
Name: Rajiv De Silva
Title: Chief Executive Officer

[Certificate of Designations of Series Y Convertible Preferred Stock of Venus Concept Inc.]

Exhibit A

OPTIONAL CONVERSION NOTICE

Venus Concept Inc.
Series Y Convertible Preferred Stock

Subject to the terms of the Certificate of Designations with respect to the Series Y Convertible Preferred Stock of Venus Concept Inc. (the "**Corporation**"), by executing and delivering this Optional Conversion Notice, the undersigned Holder of the Series Y Convertible Preferred Stock identified below directs the Corporation to convert (check one):

☐ all of the shares of Series Y Convertible Preferred Stock held by such Holder
☐ _____* shares of Series Y Convertible Preferred Stock held by such Holder

Date: _____ _____
(Legal Name of Holder)

By: _____
Name:
Title:

* Must be a whole number.

Exhibit B

MANDATORY CONVERSION NOTICE

Venus Concept Inc.
Series Y Convertible Preferred Stock

Reference is made to the Certificate of Designations (the "**Certificate of Designations**") with respect to the Series Y Convertible Preferred Stock of Venus Concept Inc. (the "**Corporation**"). Capitalized terms used but not otherwise defined in this notice have the meanings given to such terms in the Certificate of Designations.

The Corporation hereby provides notice to _____ (the "**Holder**") that _____ of the shares of Series Y Convertible Preferred Stock held by the Holder have been automatically converted pursuant to a Mandatory Conversion. The Conversion Date is _____.

Sincerely,

Venus Concept, Inc.

By: _____
Name: _____
Title: _____

Exhibit 10.1

EXCHANGE AGREEMENT

This **EXCHANGE AGREEMENT** (this "**Agreement**"), dated as of May 24, 2024, is entered into by and among Venus Concept Inc. (the "**Company**"), Venus Concept USA Inc., a wholly-owned subsidiary of the Company ("**Venus USA**"), Madryn Health Partners, LP ("**Madryn**") and Madryn Health Partners (Cayman Master), LP ("**Madryn Cayman**," and together with Madryn, the "**Lenders**"). The Company, Venus USA and the Lenders are referred to collectively as the "**Parties**."

WHEREAS, Venus USA previously entered into that certain Loan and Security Agreement (Main Street Priority Loan), dated as of December 8, 2020 (as amended, the "**Loan Agreement**"), between City National Bank of Florida, as lender ("**CNB**"), and Venus USA, as borrower, pursuant to which CNB provided Venus USA a term loan in the original principal amount of $50,000,000 (which has a current balance, including accrued interest, of $52,142,009) (the "**Loan**");

WHEREAS, to evidence Venus USA's repayment obligations under the Loan Agreement, Venus USA executed a Promissory Note in favor of CNB, dated as of December 8, 2020 (as amended, the "**Promissory Note**");

WHEREAS, to guarantee Venus USA's repayment and other obligations under the Loan Agreement, the Company executed a Guaranty of Payment and Performance in favor of CNB, dated as of December 8, 2020 (as amended, the "**Guaranty Agreement**");

WHEREAS, the Lenders previously entered into that certain Main Street Loan – Venus Concept – Sale and Assignment Agreement, dated as of April 23, 2024 (as amended, the "**Loan Assignment Agreement**"), between CNB and the Lenders, pursuant to which CNB assigned to the Lenders all of CNB's rights, title and interest in and to the Loan, the Loan Agreement, the Promissory Note, the Guaranty Agreement, all other Loan Documents (as defined in the Loan Agreement) and all other related documents;

WHEREAS, the Company has authorized a new series of convertible preferred stock, par value $0.001 per share, designated as "Series Y Convertible Preferred Stock" (the "**Series Y Preferred**"), the terms of which are set forth in the Certificate of Designations for the Series Y Preferred in the form of **Exhibit A** attached hereto (the "**Certificate of Designations**");

WHEREAS, subject to the terms and conditions set forth in this Agreement, the Parties wish to exchange (the "**Exchange**") the Promissory Note for:

- (a) a new promissory note to be issued by Venus USA to Madryn, in the original principal amount of $6,342,543, in the form of **Exhibit B-1** attached hereto (the "**New Madryn Note**"), and (b) 213,485 shares of Series Y Preferred to be issued by the Company to Madryn (the "**Madryn Shares**"); and

- (a) a new promissory note to be issued by Venus USA to Madryn Cayman, in the original principal amount of $10,799,466, in the form of **Exhibit B-2** attached hereto (the "**New Madryn Cayman Note**," and together with the New Madryn Note, the "**New Notes**"), and (b) 363,501 shares of Series Y Preferred to be issued by the Company to Madryn Cayman (the "**Madryn Cayman Shares**," and together with the Madryn Shares, the "**Shares**"); and

WHEREAS, the Exchange is being made in reliance upon the exemption from registration provided by Section 3(a)(9) of the Securities Act of 1933, as amended (the "**Securities Act**");

NOW, THEREFORE, IN CONSIDERATION of the mutual covenants contained in this Agreement, and for other good and valuable consideration, the receipt and adequacy of which are hereby acknowledged, the Parties agree as follows:

ARTICLE I.
DEFINITIONS

1.1. **Definitions**. In addition to the terms defined elsewhere in this Agreement: (a) capitalized terms that are not otherwise defined herein have the meanings given to such terms in the Certificate of Designations (as defined herein); and (b) the following terms have the meanings set forth in this Section 1.1:

"**Acquiring Person**" shall have the meaning given to such term in Section 4.7.

"**Affiliate**" means any Person that, directly or indirectly through one or more intermediaries, controls or is controlled by or is under common control with a Person, as such terms are used in and construed under Rule 405 under the Securities Act.

"**Agreement**" shall have the meaning given to such term in the Preamble.

"**Anti-Terrorism Laws**" means any laws, rules, regulations or orders relating to terrorism, sanctions or money laundering, including without limitation Executive Order No. 13224 (effective September 24, 2001), the USA PATRIOT Act, the laws comprising or implementing the Bank Secrecy Act, and the laws administered by OFAC.

"**Board of Directors**" means the board of directors of the Company.

"**Bridge Loan Agreement**" means that certain Loan and Security Agreement, dated as of April 23, 2024, by and among the Company, Venus USA, Venus Concept Canada Corp., Venus Concept Ltd. and the Lenders, pursuant to which the Lenders provided Venus USA bridge financing in the form of a term loan in the original principal amount of $2,237,906.85 and one or more delayed draw term loans of up to an additional principal amount of $2,762,093.15.

"**Bridge Loan Agreement Amendment**" shall have the meaning given to such term in Section 2.3(a)(viii).

"**Business Day**" means any day except any Saturday, any Sunday, any day which is a federal legal holiday in the United States or any day on which banking institutions in the State of New York are authorized or required by law or other governmental action to close.

"**Canadian AML Acts**" means applicable Canadian law regarding anti-money laundering, anti-terrorist financing, government sanction and "know your client" matters, including the Proceeds of Crime (Money Laundering) and Terrorist Financing Act (Canada).

"**Capped Shares**" means, as of any date, the Underlying Shares which cannot be issued upon conversion of Series Y Preferred as of such date due to the Exchange Cap.

"**Certificate of Designations**" shall have the meaning given to such term in the Recitals.

"**Closing**" shall have the meaning given to such term in Section 2.1(a).

"**Closing Date**" shall have the meaning given to such term in Section 2.1(b).

"**CNB**" shall have the meaning given to such term in the Recitals.

"**Code**" shall have the meaning given to such term in Section 2.3(b)(viii).

"**Collateral**" means all property (whether real or personal and whether tangible or intangible) with respect to which any security interests have been granted (or purported to be granted) pursuant to any Security Document, including Collateral as defined in the Loan Agreement.

"**Commission**" means the United States Securities and Exchange Commission.

"**Common Stock**" means the common stock of the Company, par value $0.0001 per share, and any other class of securities into which such securities may hereafter be reclassified or changed.

"**Common Stock Equivalents**" means any securities of the Company which would entitle the holder thereof to acquire at any time Common Stock, including, without limitation, any debt, preferred stock, right, option, warrant or other instrument that is at any time convertible into or exercisable or exchangeable for, or otherwise entitles the holder thereof to receive, Common Stock.

"**Company**" shall have the meaning given to such term in the Preamble.

"**Company Counsel**" means Dorsey & Whitney LLP, with offices located at Brookfield Place, 161 Bay Street, Suite 4310, Toronto, ON M5J 2S1, or such other outside legal counsel reasonable acceptable to the Lenders.

"**Company Legal Opinion**" means a legal opinion of Company Counsel, dated as of the Closing Date, in a form acceptable to the Lenders.

"**Covered Person**" shall have the meaning given to such term in Section 3.1(v).

"**Designated Jurisdiction**" means any country or territory to the extent that such country or territory is the subject of any Sanction.

"**Disqualification Event**" shall have the meaning given to such term in Section 3.1(v).

"**Effective Date**" means, with respect to any Underlying Shares, the earliest of the date that (a) the initial Registration Statement covering such Underlying Shares has been declared effective by the Commission, (b) all of such Underlying Shares have been sold pursuant to Rule 144 or may be sold pursuant to Rule 144 without the requirement for the Company to be in compliance with the current public information required under Rule 144 and without volume or manner-of-sale restrictions, (c) falls on the one year anniversary of the Closing Date, provided that a holder of Underlying Shares is not an Affiliate of the Company, or (d) all of such Underlying Shares may be sold pursuant to an exemption from registration under Section 4(1) of the Securities Act without volume or manner-of-sale restrictions and Company Counsel has delivered to such holders a standing written unqualified opinion that resales may then be made by such holders of such Underlying Shares pursuant to such exemption, which opinion shall be in form and substance reasonably acceptable to such holders.

"**Exchange**" shall have the meaning given to such term in the Recitals.

"**Exchange Act**" means the Securities Exchange Act of 1934, as amended, and the rules and regulations promulgated thereunder.

"**Exchange Act Reports**" shall have the meaning given to such term in Section 3.1(n).

"**Exchange Cap**" means any limitation on the convertibility of the Series Y Preferred pursuant to the rules and regulations of the Nasdaq Capital Market, as set forth in the Certificate of Designations.

"**FCPA**" means the Foreign Corrupt Practices Act of 1977, as amended.

"**FDA**" means the Food and Drug Administration.

"**Financial Statements**" shall have the meaning given to such term in Section 3.1(g).

"**GAAP**" means generally accepted accounting principles set forth in the opinions and pronouncements of the Accounting Principles Board of the American Institute of Certified Public Accountants and statements and pronouncements of the Financial Accounting Standards Board or in such other statements by such other Person as may be approved by a significant segment of the accounting profession in the United States, which are applicable to the circumstances as of the date of determination.

"**Guaranty Agreement**" shall have the meaning given to such term in the Recitals.

"**Governmental Approval**" means any consent, authorization, approval, order, license, franchise, permit, certificate, accreditation, registration, filing or notice, of, issued by, from or to, or other act by or in respect of, any Governmental Authority.

"**Governmental Authority**" means any nation or government, any state or other political subdivision thereof, any agency, authority, instrumentality, regulatory body (including, without limitation, the FDA), court, central bank or other entity exercising executive, legislative, judicial, taxing, regulatory or administrative functions of or pertaining to government, any securities exchange and any self-regulatory organization.

"**HMT**" has the meaning set forth in the definition of "Sanctions."

"**Intellectual Property**" means any and all U.S. or foreign patents, patent applications, copyrights and copyright registrations and applications, inventions, invention disclosures, protected formulae, formulations or processes, trade secrets and other similar intellectual property rights.

"**Israeli Penal Law**" means the Israeli Penal Law, 5737-1977.

"**Israeli PMLL**" means the Israeli Prohibition on Money-Laundering Law, 5760-2000.

"**Israeli Trading with the Enemy Ordinance**" means the Israeli Trading with the Enemy Ordinance, 1939.

"**Intended Tax Treatment**" shall have the meaning given to such term in Section 4.16(a).

"**Knowledge**" means, in reference to the Company or its Subsidiaries, the actual knowledge, or the actual knowledge that would be obtained following reasonable investigation, of any of Rajiv De Silva, Hemanth Varghese, Domenic Della Penna, William McGrail, and Michael Mandarello.

"**Lender Party**" shall have the meaning given to such term in Section 4.9.

"**Lenders**" shall have the meaning given to such term in the Preamble.

"**Liens**" means a lien, charge pledge, security interest, encumbrance, right of first refusal, preemptive right or other similar restriction.

"**Loan**" shall have the meaning given to such term in the Recitals.

"**Loan Agreement**" shall have the meaning given to such term in the Recitals.

"**Loan Agreement Amendment and Consent**" shall have the meaning given to such term in Section 2.3(a)(vi).

"**Loan Assignment Agreement**" shall have the meaning given to such term in the Recitals.

"**Lock-up Period**" shall have the meaning given to such term in Section 4.2(a).

"**Locked-up Securities**" shall have the meaning given to such term in Section 4.2(a).

"**Madryn**" shall have the meaning given to such term in the Preamble.

"**Madryn Cayman**" shall have the meaning given to such term in the Preamble.

"**Madryn Cayman Note**" shall have the meaning given to such term in the Recitals.

"**Madryn Cayman Shares**" shall have the meaning given to such term in the Recitals.

"**Madryn Shares**" shall have the meaning given to such term in the Recitals.

"**Material Adverse Effect**" means a material adverse change in (a) the business, operations or condition (financial or otherwise) of the Company and its Subsidiaries, when taken as a whole, (b) the validity or enforceability of this Agreement or any of the other Transaction Documents, (c) the rights or remedies of the Lenders hereunder or thereunder or any other agreements or instruments to be entered into in connection herewith or therewith, or (d) the ability of the Company or its Subsidiaries to perform their obligations under any Transaction Document.

"**Material Agreement**" means any license, agreement or other contractual arrangement required to be disclosed (including amendments thereto) under regulations promulgated under the Securities Act or the Exchange Act, as may be amended; provided, however, that "Material Agreements" shall exclude all real estate leases and all employee or director compensation agreements, arrangements or plans, or any amendments thereto.

"**New Madryn Cayman Note**" shall have the meaning given to such term in the Recitals.

"**New Madryn Note**" shall have the meaning given to such term in the Recitals.

"**New Notes**" shall have the meaning given to such term in the Recitals.

"**Notice of Conversion**" shall have the meaning given to such term in Section 4.12.

"**OFAC**" means the U.S. Department of Treasury Office of Foreign Assets Control.

"**Open Source Licenses**" shall have the meaning given to such term in Section 3.1(i).

"**Parties**" shall have the meaning given to such term in the Preamble.

"**Permitted Liens**" means any Lien in favor of (a) Madryn, Madryn Cayman or any of their respective Affiliates or (b) EW Healthcare Partners, L.P., EW Healthcare Partners-A, L.P. or any of their respective Affiliates, in the case of clause (b) to the extent in existence as of the date hereof.

"**Person**" means an individual or corporation, partnership, trust, incorporated or unincorporated association, joint venture, limited liability company, joint stock company, government (or an agency or subdivision thereof) or other entity of any kind.

"**Preferred Securities**" means the Series Y Preferred and the Underlying Shares.

"**Preferred Shareholder Approvals**" means the requisite approvals of the transactions contemplated by this Agreement by the holders of the Company's (a) Senior Convertible Preferred Stock, par value $0.001 per share, (b) Voting Convertible Preferred Stock, par value $0.001 per share, and (c) Series X Convertible Preferred Stock, par value 0.001 per share.

"**Proceeding**" means an action, claim, suit, investigation or proceeding (including, without limitation, an informal investigation or partial proceeding, such as a deposition), whether commenced or threatened.

"**Promissory Note**" shall have the meaning given to such term in the Recitals.

"**Registration Rights Agreement**" means the Registration Rights Agreement, dated as of the Closing Date, among the Company and the Lenders, in the form of **Exhibit C** attached hereto.

"**Registration Statement**" means a registration statement meeting the requirements set forth in the Registration Rights Agreement and covering the resale by the Lenders of the Underlying Shares.

"**Required Minimum**" means, as of any date, the maximum aggregate number of Underlying Shares issuable upon conversion in full of all shares of Series Y Preferred outstanding as of such date, ignoring any conversion limits set forth therein.

"**Requirement of Law**" means as to any Person, the organizational or governing documents of such Person, and any law (statutory or common), treaty, rule or regulation or determination of an arbitrator or a court or other Governmental Authority, in each case applicable to or binding upon such Person or any of its property or to which such Person or any of its property is subject.

"**Rule 144**" means Rule 144 promulgated by the Commission pursuant to the Securities Act, as such Rule may be amended or interpreted from time to time, or any similar rule or regulation hereafter adopted by the Commission having substantially the same purpose and effect as such Rule.

"**Sanction(s)**" means any sanction administered or enforced by the United States government (including, without limitation, OFAC), the Canadian government, the United Nations Security Council, the European Union, Her Majesty's Treasury ("**HMT**"), the State of Israel or its government or other relevant sanctions authority.

"**Securities**" means the New Notes, the Series Y Preferred and the Underlying Shares.

"**Securities Act**" shall have the meaning given to such term in the Recitals.

"**Security Documents**" means, collectively, the Loan Agreement, the Guaranty Agreement and any other security agreement, collateral access agreement, landlord waiver, account control agreement, promissory note, intellectual property security agreement, Uniform Commercial Code financing statement, equity certificate or other agreement or instrument pursuant to or in connection with which Venus USA or the Company grants or perfects a security interest in favor of the Lenders.

"**Series Y Preferred**" shall have the meaning given to such term in the Recitals.

"**Shareholder Approval**" shall have the meaning given to such term in Section 4.15.

"**Shareholder Meeting**" shall have the meaning given to such term in Section 4.15.

"**Shareholder Resolutions**" shall have the meaning given to such term in Section 4.15.

"**Shares**" shall have the meaning given to such term in the Recitals.

"**Short Sales**" means all "short sales" as defined in Rule 200 of Regulation SHO under the Exchange Act (but shall not be deemed to include the location or reservation of borrowable shares of Common Stock).

"**Subsidiary**" means any wholly owned subsidiary of the Company.

"**Taxes**" means all present or future taxes, levies, imposts, duties, deductions, withholdings (including backup withholding), assessments, fees or other charges, in each case in the nature of taxes, imposed by any Governmental Authority, including any interest, additions to tax or penalties applicable thereto.

"**Trading Day**" means a day on which the principal Trading Market is open for trading.

"**Trading Market**" means any of the following markets or exchanges on which the Common Stock is listed or quoted for trading on the date in question: the NYSE American, the Nasdaq Capital Market, the Nasdaq Global Market, the Nasdaq Global Select Market, or the New York Stock Exchange (or any successors to any of the foregoing).

"**Transaction Documents**" means this Agreement, the Loan Agreement Amendment and Consent, the Certificate of Designations, the Registration Rights Agreement and the New Notes.

"**Transfer Agent**" means Computershare Inc., the current transfer agent of the Company, with a mailing address of 250 Royall Street, Canton, Massachusetts 02021, and any successor transfer agent of the Company.

"**Treasury Regulations**" means the regulations promulgated under the Code by the Internal Revenue Service and United States Department of Treasury.

"**Underlying Shares**" means the shares of Common Stock issuable upon conversion of shares of Series Y Preferred.

"**Venus USA**" shall have the meaning given to such term in the Preamble.

ARTICLE II.
PURCHASE AND SALE

2.1. **Closing**.

(a) Upon the terms and subject to the conditions set forth herein, and pursuant to Section 3(a)(9) of the Securities Act, the Parties shall consummate the Exchange (the "**Closing**"), pursuant to which (i) the Lenders shall convey, assign and transfer to Venus USA the Promissory Note, in exchange for which (ii) (1) Venus USA shall issue to Madryn the New Madryn Note and to Madryn Cayman the New Madryn Cayman Note and (2) on behalf of Venus USA, the Company shall issue to Madryn the Madryn Shares and to Madryn Cayman the Madryn Cayman Shares.

(b) The Closing shall occur remotely on the date hereof (the "**Closing Date**") immediately following satisfaction of the conditions set forth in Section 2.4. Upon the delivery of the New Notes and the Shares to the Lenders, the Lenders shall relinquish all rights, title and interest in the Promissory Note, including any claims the Lenders may have against Venus USA or the Company related thereto, and the Promissory Note shall be deemed cancelled.

(c) The exchange of the Promissory Note for the New Notes is not intended to, and shall not, constitute a novation of any of the obligations under the Loan Agreement.

2.2. **Calculation of Consideration**. For greater clarity, the Parties have calculated (a) the price per share of the Shares to be equal to the product of (i) the average closing price of the Common Stock (as reflected on Nasdaq.com) for the five Trading Days immediately preceding the date hereof, multiplied by (ii) 100 (the "**Per Share Price**"), and (b) the aggregate number of Shares to be equal to the quotient of (i) the difference between the aggregate current balance of the Promissory Note less the aggregate original principal amount of the New Notes, divided by (ii) the Price Per Share.

2.3. **Closing Deliveries**.

(a) Company Deliveries. On or prior to the Closing Date, the Company shall deliver or cause to be delivered to each Lender the following:

(i) this Agreement, duly executed by the Company and Venus USA;

(ii) for each Lender, evidence of a book entry transfer evidencing such Lender's Shares, registered in the name of such Lender;

(iii) for each Lender, such Lender's New Note, duly executed by the Company and Venus USA;

(iv) evidence of the filing of the Certificate of Designations with the Secretary of State of the State of Delaware;

(v) the Registration Rights Agreement, duly executed by the Company;

(vi) a loan amendment and consent agreement with respect to the Loan Agreement, in a form acceptable to the Parties, duly executed by the Company, Venus USA, Venus Concept Canada Corp. and Venus Concept Ltd (the "**Loan Agreement Amendment and Consent**");

(vii) an amendment (the "**Convertible Notes Amendment**") to (a) that certain secured subordinated convertible note, issued as of October 4, 2023 by the Company to Madryn and (b) that certain secured subordinated convertible note, issued as of October 4, 2023 by the Company to Madryn Cayman, in each case duly executed by the Company, Venus USA, Venus Concept Canada Corp. and Venus Concept Ltd;

(viii) an amendment to the Bridge Loan Agreement, thereby extending the maturity thereof from May 26, 2024 to a date not earlier than June 7, 2024, in a form acceptable to the Parties, duly executed by the Company, Venus USA, Venus Concept Canada Corp. and Venus Concept Ltd (the "**Bridge Loan Agreement Amendment**"); and

(ix) the Company Legal Opinion, duly executed by Company Counsel.

(b) Lender Deliveries. On or prior to the Closing Date, each Lender shall deliver or cause to be delivered to the Company the following:

(i) this Agreement, duly executed by such Lender;

(ii) if issued in physical form, the Promissory Note, to be marked cancelled by the Venus USA, or an affidavit of lost note with respect to the Promissory Note in a form acceptable to the Company;

(iii) the Registration Rights Agreement, duly executed by such Lender;

(iv) the Loan Agreement Amendment and Consent, duly executed by such Lender;

(v) the Convertible Notes Amendment, duly executed by such Lender;

(vi) the Bridge Loan Agreement Amendment, duly executed by such Lender;

(vii) an "accredited investor" questionnaire, in a form acceptable to the Company in its reasonable discretion, duly executed by such Lender;

(viii) if such Lender is a "United States person" within the meaning of Section 7701(a)(30) of the United States Internal Revenue Code of 1986, as amended (the "**Code**"), a properly completed and executed IRS Form W-9; and

(ix) if such Lender is not a "United States person" within the meaning of Section 7701(a)(30) of the Code, all of the following that are applicable: (1) a properly completed and executed IRS Form W-8BEN, IRS Form W-8BEN-E or other applicable IRS Form claiming, to the extent applicable, a reduction or exemption from withholding of Taxes under an income Tax treaty to which the United States is a party; (2) a properly completed and executed IRS Form W-8ECI; (3) a certificate in form and substance satisfactory to the Company claiming entitlement to the portfolio interest exemption under Section 881(c) of the Code and certifying that such Lender is not a conduit entity participating in a conduit financing arrangement as defined in Treasury Regulations section 1.881-3, a "bank" within the meaning of Section 881(c)(3)(A) of the Code, a "10 percent shareholder" of the Company within the meaning of Section 881(c)(3)(B) of the Code, or a "controlled foreign corporation" described in Sections 881(c)(3)(C) and 864(d)(4) of the Code, and (4) if the Lender is not the beneficial owner of amounts paid to it, a properly completed and executed IRS Form W-8IMY accompanied by a withholding statement and an IRS Form W-8ECI, IRS Form W-8BEN, IRS Form W-8BEN-E, IRS Form W-9 or a certificate described in clause (3) above from each beneficial owner of such amounts claiming entitlement to exemption from withholding or backup withholding of Taxes.

2.4. **Closing Conditions**.

(a) Company Closing Conditions. The obligations of the Company hereunder in connection with the Closing are subject to the following conditions being met:

(i) the accuracy in all material respects (or, to the extent representations or warranties are qualified by materiality or Material Adverse Effect, in all respects) of the representations and warranties of each Lender contained herein as of the Closing Date (unless a different date is specified herein, in which case such representations and warranties shall be accurate as of such specified date);

(ii) the performance of all obligations, covenants and agreements of each Lender required to be performed as of or prior to the Closing Date; and

(iii) the delivery by each Lender of the items required to be delivered by such Lender as set forth in Section 2.3(b) of this Agreement.

(b) Lender Closing Conditions. The respective obligations of the Lenders hereunder in connection with the Closing are subject to the following conditions being met:

(i) the accuracy in all material respects (or, to the extent representations or warranties are qualified by materiality or Material Adverse Effect, in all respects) of the representations and warranties of the Company and its Subsidiaries, as applicable, contained herein as of the Closing Date (unless a different date is specified herein, in which case such representations and warranties shall be accurate as of such specified date);

(ii) the performance of all obligations, covenants and agreements of the Company and its Subsidiaries required to be performed as of or prior to the Closing Date;

(iii) the delivery by the Company of the items required to be delivered by the Company as set forth in Section 2.3(a) of this Agreement; and

(iv) the receipt by the Company of any and all consents, waivers or authorizations of any Governmental Authority or other Person necessary for the issuance of the Shares, including the Preferred Shareholder Approvals.

ARTICLE III.
REPRESENTATIONS AND WARRANTIES

3.1. **Representations and Warranties of the Company**. The Company, including on behalf of its Subsidiaries, as applicable, hereby represent and warrant to the Lenders as of the Closing Date (unless a different date is specified herein, in which case such representations and warranties shall be made as of such specified date) as follows:

(a) Due Organization, Authorization, Power and Authority.

(i) The Company and each of its Subsidiaries is duly existing and in good standing in its jurisdictions of organization or formation and the Company and each of its Subsidiaries is qualified and licensed to do business and is in good standing in any jurisdiction in which the conduct of its businesses or its ownership of property requires that it be so qualified except where the failure to do so could not reasonably be expected to have a Material Adverse Effect.

(ii) The execution, delivery and performance by the Company and its Subsidiaries, as applicable, of the Transaction Documents to which it is a party do not and will not (1) conflict with the Company's or any of its Subsidiaries' organizational documents, including their respective certificate of incorporation and bylaws, (2) contravene, conflict with, constitute a default under or violate any material Requirement of Law applicable thereto, (3) contravene, conflict or violate any applicable order, writ, judgment, injunction, decree, determination or award of any Governmental Authority by which the Company, or any of its property or assets may be bound or affected, (4) require any action by, filing, registration, notice to or qualification with, or Governmental Approval from, any Governmental Authority or any other Person (except for such Governmental Approvals which have already been obtained and are in full force and effect), or (5) constitute an event of default or material breach under any Material Agreement by which the Company, any of its Subsidiaries or any of their respective properties, is bound. Neither the Company nor any of its Subsidiaries is in default or material breach under any Material Agreement to which it is a party or by which it or any of its assets is bound in which such default could reasonably be expected to have a Material Adverse Effect.

(iii) Each of the Company and its Subsidiaries, as applicable, has the requisite corporate power and authority to enter into and to consummate the transactions contemplated by this Agreement and each of the other Transaction Documents and otherwise to carry out its obligations hereunder and thereunder. The execution and delivery of each of this Agreement and the other Transaction Documents by the Company and the consummation of the transactions contemplated hereby and thereby have been duly authorized by all necessary action on the part of the Company and, except for the Shareholder Approval, no further action is required by the Company, the Board of Directors or the Company's shareholders in connection herewith or therewith.

(b) Enforceability. The Transaction Documents have been duly executed by the Company and its Subsidiaries, as applicable, and, upon the consummation of the transactions contemplated by the Transaction Documents, shall constitute the legal, valid, and binding obligations of the Company and its Subsidiaries, as applicable, enforceable against the Company in accordance with their terms, except as such enforceability may be limited by bankruptcy, fraudulent conveyance, insolvency, reorganization, transfer, moratorium, and other laws relating to or affecting creditors' rights generally and by general equitable principles (regardless of whether such enforceability is considered in a proceeding in equity or at law).

(c) Valid Issuance.

(i) The New Notes and Shares (1) have been duly authorized by the Company or Venus USA, as applicable, and, upon their issuance pursuant to this Agreement in accordance with Section 2.1, will be validly issued, fully paid and non-assessable, (2) except as set forth in Schedule 3.1(c)(i)(2) hereto, are not subject to any preemptive, participation, rights of first refusal, antidilution or other similar rights, and (3) assuming the accuracy of each Lender's representations and warranties hereunder, (A) will be issued exempt from the registration requirements of the Securities Act pursuant to Section 3(a)(9) of the Securities Act and (B) will be issued in compliance with all applicable state and federal laws concerning the issuance of the New Notes and Shares.

(ii) The Underlying Shares have been duly and validly authorized and reserved by the Company and, when issued upon conversion in accordance with this Agreement and the Certificate of Designations, will be validly issued, fully paid and non-assessable shares of Common Stock, and the issuance of such shares of Common Stock shall not be subject to any preemptive or similar rights.

(d) Capitalization. The Company's capitalization as disclosed in its filings with the Commission is true and complete, in all material respects, as of the date of such filings.

(e) Material Adverse Effect. Since December 31, 2023, there has been no event or circumstance, either individually or in the aggregate, that has had or could reasonably be expected to have a Material Adverse Effect.

(f) Subsidiaries' Equity Interests. Except for Venus Concept (HK) Limited, which is owned 49% by minority investors, all of the issued ownership interests of each of the Subsidiaries of the Company are duly authorized and validly issued, fully paid, nonassessable, and directly owned by the Company or its applicable Subsidiary and are free and clear of all Liens, other than Permitted Liens, and not subject to any preemptive rights, rights of first refusal, option, warrant, call, subscription, and similar rights, other than as required by law.

(g) Financial Statements. The financial statements of the Company included in the Company's filings with the Commission following December 31, 2023 (the "**Financial Statements**") have been prepared in accordance with GAAP applied on a consistent basis throughout the periods involved, subject, in the case of the interim Financial Statements, to normal and recurring year-end adjustments (the effect of which will not be materially adverse) and the absence of notes (that, if presented, would not differ materially from those presented in the audited Financial Statements). The Financial Statements are based on the books and records of the Company, and fairly present in all material respects the financial condition of the Company as of the respective dates they were prepared and the results of the operations of the Company for the periods indicated.

(h) Operations in the Ordinary Course. Except as set forth in or contemplated by the Company's filings with the Commission since December 31, 2023, since December 31, 2023 the Company and its Subsidiaries have conducted their respective businesses in the ordinary course, consistent with past practice in all material respects, and there has been no (i) acquisition or disposition of any material asset by the Company or any of its Subsidiaries, or any contract or arrangement therefor, other than acquisitions or dispositions for fair value in the ordinary course of business or acquisitions or dispositions as disclosed in the Company's filings with the Commission or (ii) material change in the Company's accounting principles, practices or methods.

(i) Intellectual Property.

(i) The Company and each of its Subsidiaries is the sole owner of the Intellectual Property each respectively purports to own, free and clear of all Liens, other than Permitted Liens, and non-exclusive licenses for off-the-shelf software that is commercially available to the public.

(ii) None of the Company or any of its Subsidiaries has used any software or other materials that are subject to an open-source or similar license (including the General Public License, Lesser General Public License, Mozilla Public License, or Affero License) (collectively, "**Open Source Licenses**") in a manner that would cause any software or other materials owned by the Company or used in any Company products to have to be (1) distributed to third parties at no charge or a minimal charge, (2) licensed to third parties for the purpose of creating modifications or derivative works, or (3) subject to the terms of such Open Source License.

(iii) Each employee and contractor of the Company and its Subsidiaries involved in development or creation of any material Intellectual Property has assigned any and all inventions and ideas of such Person in and to such Intellectual Property to the Company or such Subsidiary, except where failure to do so could not reasonably be expected to have a Material Adverse Effect, in each case individually or in the aggregate.

(iv) No settlement or consents, covenants not to sue, non-assertion assurances, or releases have been entered into by the Company or any of its Subsidiaries or exist to which the Company or such Subsidiary is bound that adversely affect its rights to own or use any Intellectual Property except as could not be reasonably expected to result in a Material Adverse Effect, in each case individually or in the aggregate.

(j) Litigation. Except as set forth in or contemplated by the Company's filings with the Commission since December 31, 2023, are no actions, suits, investigations, or proceedings pending or, to the Company's Knowledge, threatened in writing by or against the Company or any of its Subsidiaries reasonably expected to result in the payment or award of damages of more than $500,000.

(k) Insurance. The Company and its Subsidiaries are insured by insurers of recognized financial responsibility against such losses and risks and in such amounts as are prudent and customary in the businesses in which they are engaged. The Company does not have any reason to believe that it or any Subsidiary will not be able to renew its existing insurance coverage as and when such coverage expires or to obtain similar coverage from similar insurers as may be necessary to continue its business in all material respects.

(l) Tax Returns and Payments; Pension Contributions. The Company and each of its Subsidiaries have timely filed all material tax returns and reports (or extensions thereof) required to be filed by them, and the Company and each of its Subsidiaries, have timely paid all foreign, federal, state, and local Taxes owed by the Company and such Subsidiaries in a cumulative amount greater than $100,000, in all jurisdictions in which the Company or any such Subsidiary is subject to Taxes, including the United States, unless such Taxes are being contested in accordance with the next sentence. The Company and each of its Subsidiaries may defer payment of any contested Taxes; provided, however, that the Company or such Subsidiary (a) in good faith contests its obligation to pay the Taxes by appropriate proceedings promptly and diligently instituted and conducted; and (b) maintains adequate reserves or other appropriate provisions on its books in accordance with GAAP. Neither the Company nor any of its Subsidiaries is aware of any claims or adjustments proposed by any Governmental Authority in writing for any of the Company's or such Subsidiary's, prior Tax years which could result in additional taxes in a cumulative amount greater than $100,000 becoming due and payable by the Company or its Subsidiaries. The Company and each of its Subsidiaries have paid all amounts necessary to fund all present pension, profit sharing and deferred compensation plans in accordance with their terms, and neither the Company nor any of its Subsidiaries has, withdrawn from participation in, has permitted partial or complete termination of, or has permitted the occurrence of any other event with respect to, any such plan which could reasonably be expected to result in any liability of the Company or its Subsidiaries, including any liability to the Pension Benefit Guaranty Corporation or its successors or any other Governmental Authority.

(m) Regulatory Compliance.

(i) Neither the Company nor any of its Subsidiaries is an "investment company" or a company "controlled" by an "investment company" under the Investment Company Act of 1940, as amended. Neither the Company nor any of its Subsidiaries is engaged as one of its important activities in extending credit for margin stock (under Regulations X, T and U of the Federal Reserve Board of Governors). Except as set forth in Schedule 3.1(m) hereto, the Company and each of its Subsidiaries complies in all material respects with the Federal Fair Labor Standards Act. Neither the Company nor any of its Subsidiaries is a "holding company" or an "affiliate" of a "holding company" or a "subsidiary company" of a "holding company" as each term is defined and used in the Public Utility Holding Company Act of 2005. Neither the Company nor any of its Subsidiaries has violated any laws, order, ordinances or rules, the violation of which could reasonably be expected to have a Material Adverse Effect. Neither the Company's nor any of its Subsidiaries' properties or assets has been used by the Company or such Subsidiary or, to the Company's Knowledge, by previous Persons, in disposing, producing, storing, treating, or transporting any hazardous substance other than in material compliance with material applicable laws. The Company and each of its Subsidiaries has obtained all material consents, approvals and authorizations of, made all declarations or filings with, and given all notices to, all Governmental Authorities that are necessary to continue their respective businesses as currently conducted.

(ii) Neither the Company, nor any Subsidiary, nor, to the Knowledge of the Company, any director, officer, employee, agent, representative or Affiliate thereof, is an individual or entity that is, or is owned or controlled by, any individual or entity that is (1) the subject or target of any Sanctions, (2) included on OFAC's List of Specially Designated Nationals, HMT's Consolidated List of Financial Sanctions Targets and the Investment Ban List, or any similar list enforced by any other relevant sanctions authority or (3) located, organized or resident in a Designated Jurisdiction.

(iii) The Company and its Subsidiaries have conducted their business in material compliance with the United States Foreign Corrupt Practices Act of 1977, the UK Bribery Act 2010, the Corruption of Foreign Public Officials Act (Canada), the Israeli Penal Law, Chapter 9, Part 5 and other similar anti-corruption legislation in such or other jurisdictions, and have instituted and maintained policies and procedures designed to promote and achieve compliance with such laws.

(iv) To the extent applicable, the Company and each Subsidiary is in compliance, in all material respects, with (1) the Trading with the Enemy Act, as amended, and each of the foreign assets control regulations of the United States Treasury Department (31 CFR, Subtitle B, Chapter V, as amended) and any other enabling legislation or executive order relating thereto, (2) the Act, (3) the Canadian AML Acts and (4) the Israeli Trading with the Enemy Ordinance and the Israeli PMLL and other similar legislation in such or other jurisdictions. Notwithstanding the foregoing, the representations in this Section 3.1(m) shall not be made by nor apply to any Person organized under the laws of Canada insofar as such representations would result in a violation of or conflict with the Foreign Extraterritorial Measures Act (Canada) or any similar law.

(n) Listing Rules. Except for the Shareholder Approval, the Company is not required to obtain any consent or approval from its shareholders in connection with the consummation of the transactions contemplated by this Agreement or any of the Transaction Documents pursuant to the rules of any Trading Market on which any of the securities of the Company are listed or designated.

(o) Compliance with Securities Laws. The Company is a reporting issuer in the United States, and is not in default under applicable U.S. federal securities laws, and is in compliance with its timely disclosure obligations under such laws and the requirements of each Trading Market on which the Common Stock is currently listed. No order, ruling or determination having the effect of suspending the sale or ceasing the trading of any securities of the Company has been issued or made by the Commission, any other securities commission, stock exchange or other regulatory authority and no proceedings for that purpose have been instituted or are pending or, to the Company's Knowledge, are contemplated by any such authority. The Company is in material compliance with all applicable requirements of each applicable Trading Market. None of the applicable U.S. securities regulatory authorities or similar regulatory authority, any applicable Trading Market or any other competent authority has issued any order to cease or suspend trading of any securities of the Company, and the Company has not taken any action that is reasonably likely to result in the delisting of any securities of the Company that are listed or designated on any Trading Market (it being understood and agreed that the Company's movement of its securities from one Trading Market to another Trading Market shall not constitute a delisting for purposes of this Section 3.1(o)). For the avoidance of doubt, the representations contained in the third sentence of this Section 3.1(o) are qualified by reference to the Company's (i) existing failure to satisfy the minimum stockholders' equity requirement as required for continued listing under Nasdaq Listing Rule 5550(b), provided that to the Company's Knowledge such Nasdaq Listing Rule shall be satisfied following the Closing, and (ii) existing failure to satisfy the minimum closing bid price requirement as required for continued listing under Nasdaq Listing Rule 5550(a)(2), in each case as disclosed in the Company's filings with the Commission.

(p) Exchange Act Compliance. All documents filed with the Commission by the Company under the Exchange Act are hereinafter referred to herein as the "**Exchange Act Reports**". The Exchange Act Reports, when they were or are filed with the Commission, conformed or will conform in all material respects to the applicable requirements of the Exchange Act and the applicable rules and regulations of the Commission thereunder. The Exchange Act Reports did not, when filed with the Commission, contain an untrue statement of material fact or omit to state a material fact necessary in order to make the statements therein, in the light of the circumstances under which they were made, not misleading.

(q) No Integrated Offering. Assuming the accuracy of the Lenders' representations and warranties set forth in Section 3.2, neither the Company, nor any of its Affiliates, nor any Person acting on its or their behalf has, directly or indirectly, made any offers or sales of any security or solicited any offers to buy any security, under circumstances that would cause the offering of the Securities to be integrated with prior offerings by the Company for purposes of (i) the Securities Act which would require the registration of any such securities under the Securities Act, or (ii) any applicable shareholder approval provisions of any Trading Market on which any of the securities of the Company are listed or designated.

(r) No Broker's Fees. Except as provided for the Company's engagement letter with Canaccord Genuity LLC, dated April 6, 2023, as amended from time to time, none of the Company nor any of its Subsidiaries are party to any contract, agreement or understanding with any Person that would give rise to a valid claim against them or the Lenders for a brokerage commission, finder's fee or like payment in connection with the Transaction Documents and the transactions contemplated thereby.

(s) No Registration. Assuming the accuracy of the Lenders' representations and warranties set forth in Section 3.2 and their compliance with their agreements contained in the Transaction Documents, no registration under the Securities Act is required for the offer and sale of the Securities to the Lenders pursuant to the terms of this Agreement. Subject to limitations contained in the Certificate of Designations and the New Notes, the issuance and sale of the Securities hereunder does not contravene the rules and regulations of the Trading Market.

(t) Registration Rights. Other than as provided for in the Registration Rights Agreement and as disclosed in the Company's filings with the Commission, no Person has any right to cause the Company to effect the registration under the Securities Act of any securities of the Company or its Subsidiaries.

(u) No General Solicitation. Neither the Company nor any Person acting on behalf of the Company has offered or sold any of the Securities by any form of general solicitation or general advertising. The Company has offered, and may offer, the Securities for sale only to the Lenders and other "accredited investors" within the meaning of Rule 501 under the Securities Act.

(v) Disqualification Events. None of the Company, any Subsidiary, any of their respective predecessors, any director, executive officer, other officer of the Company or any Subsidiary participating in the offering contemplated hereby, any beneficial owner (as that term is defined in Rule 13d-3 under the Exchange Act) of 20% or more of the Company's outstanding voting equity securities, calculated on the basis of voting power, any "promoter" (as that term is defined in Rule 405 under the Securities Act) connected with the Company or any of the Subsidiaries in any capacity at the time of the Closing, any placement agent or dealer participating in the offering of the New Notes, any of such agents' or dealer's directors, executive officers, other officers participating in the offering of the New Notes (the "**Covered Persons**") is subject to any of the "Bad Actor" disqualifications described in Rule 506(d)(1)(i) to (viii) under the Securities Act (a "**Disqualification Event**"). The Company has exercised reasonable care to determine (i) the identity of each person that is a Covered Person; and (ii) whether any Covered Person is subject to a Disqualification Event. The Company has complied, to the extent applicable, with its disclosure obligations under Rule 506(e). None of the Company or Venus USA is for any other reason disqualified from reliance upon Rule 506 of Regulation D under the Securities Act for purposes of the offer and sale of the Securities.

(w) Acknowledgement Regarding Lenders' Purchase of Securities. The Company acknowledges and agrees that each Lender is acting solely in the capacity of an arm's length purchaser with respect to the Transaction Documents and the transactions contemplated hereby and thereby. The Company further acknowledges that none of the Lenders are acting as a financial advisor or fiduciary of the Company or any of its Subsidiaries (or in any similar capacity) with respect to the Transaction Documents and the transactions contemplated hereby and thereby, and any advice given by any Lender or any of its representatives or agents in connection with the Transaction Documents and the transactions contemplated hereby and thereby is merely incidental to such Lender's purchase of the Securities.

(x) Acknowledgement Regarding Lenders' Trading Activity. It is understood and acknowledged by the Company that, except as otherwise specifically set forth in any written agreement between the Company and the applicable Lender (including Section 4.3 of this Agreement, which shall control to the extent in conflict with this Section 3.1(x)), (i) following the public disclosure of the transactions contemplated by the Transaction Documents, in accordance with the terms thereof, none of the Lenders has been asked by the Company or any of its Subsidiaries to agree, nor has any Lender agreed with the Company or any of its Subsidiaries, to refrain from effecting any transactions in or with respect to (including, without limitation, purchasing or selling, long or short) any securities of the Company, or "derivative" securities based on securities issued by the Company or to hold any of the Securities for any specified term; (ii) no Lender shall be deemed to have any affiliation with or control over any arm's length counterparty in any "derivative" transaction; and (iv) each Lender may rely on the Company's obligation to timely deliver Shares upon conversion, exercise or exchange, as applicable, of the Securities as and when required pursuant to the Transaction Documents for purposes of effecting trading in the Common Stock of the Company, subject to the limitations set forth herein. The Company further understands and acknowledges that, except as otherwise specifically set forth in any written agreement between the Company and the applicable Lender, following the public disclosure of the transactions contemplated by the Transaction Documents one or more Lenders may engage in hedging or trading activities (including, without limitation, the location or reservation of borrowable shares of Common Stock) at various times during the period that the Securities are outstanding, including, without limitation, during the periods that the value or number of the Underlying Shares deliverable with respect to the Securities are being determined and such hedging or trading activities (including, without limitation, the location or reservation of borrowable shares of Common Stock), if any, can reduce the value of the existing stockholders' equity interest in the Company both at and after the time the hedging or trading activities are being conducted. The Company acknowledges that, except as otherwise specifically set forth in any written agreement between the Company and the applicable Lender, such aforementioned hedging or trading activities do not constitute a breach of this Agreement, the Securities or any other Transaction Document or any of the documents executed in connection herewith or therewith.

(y) Security Interest in Collateral. Prior to any assignment by the Lenders of the New Notes, the provisions of this Agreement and the other Transaction Documents (after giving effect to post-closing obligations) create legal, valid and enforceable Liens on, and security interests in, all of the right, title and interest of Venus USA, the Company, Venus Concept Canada Corp. and Venus Concept Ltd in and to all the Collateral owned by Venus USA, the Company, Venus Concept Canada Corp. and Venus Concept Ltd in favor of the Lenders, and upon (i) the making of the filings, recordings and other similar actions specified in the Security Documents, and (ii) the taking of possession or control by the Lenders of such Collateral with respect to which a security interest may be perfected only by possession or control (which possession or control shall be given to the Lenders to the extent required by any Security Document), such Liens shall constitute perfected and continuing Liens on, and security interests in, the Collateral, securing the Obligations (as defined in the Loan Agreement), enforceable against Venus USA, the Company, Venus Concept Canada Corp., Venus Concept Ltd and all third parties.

(z) Full Disclosure. No written representation, warranty or other statement of the Company or any of its Subsidiaries in any certificate or written statement, when taken as a whole, given to any Lender, as of the date such representation, warranty, or other statement was made, taken together with all such written certificates and written statements given to any Lender, contains any untrue statement of a material fact or omits to state a material fact necessary to make the statements contained in the certificates or statements not misleading (it being recognized that projections and forecasts provided by the Company in good faith and based upon reasonable assumptions are not viewed as facts and that actual results during the period or periods covered by such projections and forecasts may differ from the projected or forecasted results).

3.2. **Representations and Warranties of the Lenders**. Each Lender, for itself and for no other Lender, hereby represents and warrants to the Company as of the Closing Date (unless a different date is specified herein, in which case such representations and warranties shall be made as of such specified date) as follows:

(a) Organization; Authority. Such Lender is either an individual or an entity duly incorporated or formed, validly existing and in good standing under the laws of the jurisdiction of its incorporation or formation with full right, corporate, partnership, limited liability company or similar power and authority to enter into and to consummate the transactions contemplated by the Transaction Documents and otherwise to carry out its obligations hereunder and thereunder. The execution and delivery of the Transaction Documents and performance by such Lender of the transactions contemplated by the Transaction Documents have been duly authorized by all necessary corporate, partnership, limited liability company or similar action, as applicable, on the part of such Lender. Each Transaction Document to which it is a party has been duly executed by such Lender, and when delivered by such Lender in accordance with the terms hereof, will constitute the valid and legally binding obligation of such Lender, enforceable against it in accordance with its terms, except: (i) as limited by general equitable principles and applicable bankruptcy, insolvency, reorganization, moratorium and other laws of general application affecting enforcement of creditors' rights generally, (ii) as limited by laws relating to the availability of specific performance, injunctive relief or other equitable remedies and (iii) insofar as indemnification and contribution provisions may be limited by applicable law.

(b) No Conflicts. The execution, delivery and performance by such Lender of this Agreement and the consummation by such Lender of the transactions contemplated hereby will not (i) result in a violation of the organizational documents of such Lender or (ii) conflict with, or constitute a default (or an event which with notice or lapse of time or both would become a default) under, or give to others any rights of termination, amendment, acceleration or cancellation of, any agreement, indenture or instrument to which such Lender is a party, or (iii) result in a violation of any law, rule, regulation, order, judgment or decree (including federal and state securities laws) applicable to such Lender, except in the case of clauses (ii) and (iii) above, for such that are not material and do not otherwise affect the ability of such Lender to consummate the transactions contemplated hereby.

(c) Own Account. Such Lender understands that the Securities are "restricted securities" and have not been registered under the Securities Act or any applicable state securities law and is acquiring the Securities as principal for its own account and not with a view to or for distributing or reselling such Securities or any part thereof in violation of the Securities Act or any applicable state securities law, has no present intention of distributing any of such Securities in violation of the Securities Act or any applicable state securities law and has no direct or indirect arrangement or understandings with any other Persons to distribute or regarding the distribution of such Securities in violation of the Securities Act or any applicable state securities law (this representation and warranty not limiting such Lender's right to sell the Securities pursuant to the Registration Statement or otherwise in compliance with applicable federal and state securities laws). Such Lender is acquiring the Securities hereunder in the ordinary course of its business.

(d) Lender Status. At the time such Lender was offered the Shares, it was, and as of the date hereof it is, and on each date on which it converts any Series Y Preferred, it will be either: (i) an "accredited investor" as defined in Rule 501(a)(1), (a)(2), (a)(3), (a)(7) or (a)(8) under the Securities Act or (ii) a "qualified institutional buyer" as defined in Rule 144A(a) under the Securities Act.

(e) Experience of Such Lender. Such Lender, either alone or together with its representatives, has such knowledge, sophistication and experience in business and financial matters so as to be capable of evaluating the merits and risks of the prospective investment in the Securities, and has so evaluated the merits and risks of such investment. Such Lender is able to bear the economic risk of an investment in the Securities and, at the present time, is able to afford a complete loss of such investment. Such Lender and its advisors, if any, have been furnished with all materials relating to the business, financial condition and results of operations of the Company, and materials relating to the offer and sale of the Securities, that have been requested by such Lender or its advisors, if any. Such Lender acknowledges and understands that its investment in the Securities involves a significant degree of risk.

(f) General Solicitation. Such Lender is not purchasing the Securities as a result of any advertisement, article, notice or other communication regarding the Securities published in any newspaper, magazine or similar media or broadcast over television or radio or presented at any seminar or, to such Lender's knowledge, any other general solicitation or general advertisement.

(g) Access to Information. Such Lender acknowledges that it has had the opportunity to review the Transaction Documents (including all exhibits and schedules thereto) and the Exchange Act Reports and has been afforded (i) the opportunity to ask such questions as it has deemed necessary of, and to receive answers from, representatives of the Company concerning the terms and conditions of the offering of the Securities and the merits and risks of investing in the Securities; (ii) access to information about the Company and its financial condition, results of operations, business, properties, management and prospects sufficient to enable it to evaluate its investment; and (iii) the opportunity to obtain such additional information that the Company possesses or can acquire without unreasonable effort or expense that is necessary to make an informed investment decision with respect to the investment.

(h) Short Sales and Confidentiality. Other than consummating the transactions contemplated hereunder, such Lender has not directly or indirectly, nor has any Person acting on behalf of or pursuant to any understanding with such Lender, executed any Short Sale with respect to securities of the Company prior to the date hereof. Notwithstanding the foregoing, in the case of a Lender that is a multi-managed investment vehicle whereby separate portfolio managers manage separate portions of such Lender's assets and the portfolio managers have no direct knowledge of the investment decisions made by the portfolio managers managing other portions of such Lender's assets, the representation set forth above shall only apply with respect to the portion of assets managed by the portfolio manager that made the investment decision to purchase the Securities covered by this Agreement. Other than to other Persons party to this Agreement or to such Lender's representatives (including, without limitation, its officers, directors, partners, legal and other advisors, employees, agents and Affiliates), bound by a duty of confidentiality to such Lender and whom such Lender has taken reasonable actions to cause them to maintain such confidentiality, such Lender has maintained the confidentiality of all disclosures made to it in connection with this transaction (including the existence and terms of this transaction).

(i) No Governmental Review. Such Lender understands that no United States federal or state agency or any other government or governmental agency has passed on or made any recommendation or endorsement of the Securities or the fairness or suitability of the investment in the Securities nor have such authorities passed upon or endorsed the merits of the offering of the Securities.

(j) No Legal, Tax or Investment Advice. Such Lender understands that nothing in this Agreement or any other materials presented by or on behalf of the Company to the Lenders in connection with the purchase of the Securities constitutes legal, tax or investment advice. Such Lender has consulted such legal, tax and investment advisors as it, in its sole discretion, has deemed necessary or appropriate in connection with its purchase of the Securities.

ARTICLE IV.
OTHER AGREEMENTS OF THE PARTIES

4.1. **Transfer Restrictions**.

(a) The Preferred Securities may only be disposed of in compliance with state and federal securities laws. In connection with any transfer of Securities other than pursuant to an effective registration statement or Rule 144, to the Company or to an Affiliate of a Lender or in connection with a pledge as contemplated in Section 4.1(b), the Company may require the transferor thereof to provide to the Company an opinion of counsel selected by the transferor and reasonably acceptable to the Company, the form and substance of which opinion shall be reasonably satisfactory to the Company, to the effect that such transfer does not require registration of such transferred Securities under the Securities Act. As a condition of transfer, any such transferee shall agree in writing to be bound by the terms of this Agreement and the Registration Rights Agreement and shall have the rights and obligations of a Lender under this Agreement and the Registration Rights Agreement.

(b) The Lenders agree to the imprinting, so long as is required by this Section 4.1, of a legend on any of the Preferred Securities in the following form:

> "THE SECURITIES REPRESENTED HEREBY HAVE NOT BEEN REGISTERED WITH THE SECURITIES AND EXCHANGE COMMISSION OR THE SECURITIES COMMISSION OF ANY STATE IN RELIANCE UPON AN EXEMPTION FROM REGISTRATION UNDER THE SECURITIES ACT OF 1933, AS AMENDED, AND, ACCORDINGLY, MAY NOT BE TRANSFERRED UNLESS (I) SUCH SECURITIES HAVE BEEN REGISTERED FOR SALE PURSUANT TO THE SECURITIES ACT OF 1933, AS AMENDED, (II) SUCH SECURITIES MAY BE SOLD PURSUANT TO RULE 144, OR (III) THE COMPANY HAS RECEIVED AN OPINION OF COUNSEL REASONABLY SATISFACTORY TO IT THAT SUCH TRANSFER MAY LAWFULLY BE MADE WITHOUT REGISTRATION UNDER THE SECURITIES ACT OF 1933, AS AMENDED."

(c) The Company acknowledges and agrees that a Lender may from time to time pledge pursuant to a bona fide margin agreement with a registered broker-dealer or grant a security interest in some or all of the Preferred Securities to a financial institution that is an "accredited investor" as defined in Rule 501(a) under the Securities Act and, if required under the terms of such arrangement, such Lender may transfer pledged or secured Securities to the pledgees or secured parties. Such a pledge or transfer would not be subject to approval of the Company and no legal opinion of legal counsel of the pledgee, secured party or pledgor shall be required in connection therewith. Further, no notice shall be required of such pledge. At the appropriate Lender's expense, the Company will execute and deliver such reasonable documentation as a pledgee or secured party of Securities may reasonably request in connection with a pledge or transfer of the Preferred Securities, including, if the Preferred Securities are subject to registration pursuant to the Registration Rights Agreement, the preparation and filing of any required prospectus supplement under Rule 424(b)(3) under the Securities Act or other applicable provision of the Securities Act to appropriately amend the list of Selling Securityholders (as defined in the Registration Rights Agreement) thereunder.

(d) Instruments, whether certificated or uncertificated, evidencing the Preferred Securities shall not contain any legend (including the legend set forth in Section 4.1(b) hereof), (i) while a registration statement (including the Registration Statement) covering the resale of such security is effective under the Securities Act, (ii) following any sale of such Securities pursuant to Rule 144, (iii) if such Securities are eligible for sale under Rule 144, without the requirement for the Company to be in compliance with the current public information required under Rule 144 as to such Securities and without volume or manner-of-sale restrictions, or (iv) if such legend is not required under applicable requirements of the Securities Act (including judicial interpretations and pronouncements issued by the staff of the Commission). Promptly after the Effective Date, the Company shall cause its counsel to issue a legal opinion to the Transfer Agent if required by the Transfer Agent to effect the removal of the legend hereunder. If all or any Series Y Preferred is converted at a time when there is an effective registration statement to cover the resale of the Preferred Securities, or if such Securities may be sold under Rule 144 and the Company is then in compliance with the current public information required under Rule 144, or if the Preferred Securities may be sold under Rule 144 without the requirement for the Company to be in compliance with the current public information required under Rule 144 as to such Securities or if such legend is not otherwise required under applicable requirements of the Securities Act (including judicial interpretations and pronouncements issued by the staff of the Commission) then such Securities shall be issued free of all legends. The Company agrees that following the Effective Date or at such time as such legend is no longer required under this Section 4.1(d), it will, as soon as practicable and no later than five Trading Days following the delivery by a Lender to the Company or the Transfer Agent of a certificate or book entry (at the election of such Lender, provided that, absent instructions to the contrary, the default shall be book-entry) representing Securities, as the case may be, issued with a restrictive legend, deliver or cause to be delivered to such Lender an unrestricted book entry representing such shares that is free from all restrictive and other legends. The Company may not make any notation on its records or give instructions to the Transfer Agent that enlarge the restrictions on transfer set forth in this Section 4.1. Instruments, whether certificated or uncertificated, for Securities subject to legend removal hereunder shall be transmitted by the Transfer Agent to the Lender by crediting the account of the Lender's prime broker with the Depository Trust Company System as directed by such Lender.

4.2. **Lock-Up**.

(a) Notwithstanding any provision of this Agreement to the contrary, each Lender hereby agrees that, without the prior written consent of the Company, such Lender will not (i) offer, pledge, sell, contract to sell, sell any option or contract to purchase, purchase any option or contract to sell, grant any option, right or warrant to purchase, or otherwise transfer or dispose of, directly or indirectly, (1) any shares of Common Stock or (2) any securities convertible into, or exercisable or exchangeable for, Common Stock (for the avoidance of doubt, including any and all New Notes and Series Y Preferred) (collectively, the "**Locked-up Securities**"), or publicly disclose the intention to make any such offer, sale, pledge or disposition of Locked-up Securities, or (ii) enter into any swap or other agreement that transfers, in whole or in part, any of the economic consequences of ownership of Locked-up Securities, whether any such transaction described in clause (i) or (ii) above is to be settled by delivery of Common Stock or such other securities, in cash or otherwise, until the earlier of (A) November 24, 2024 or (B) the occurrence of a Mandatory Conversion Trigger (as defined in the Certificate of Designations) (the "**Lock-Up Period**"). The Company will direct its transfer agent to place stop transfer restrictions upon any Locked-up Securities for the duration of the Lock-Up Period.

(b) Notwithstanding the foregoing, following reasonable prior notice to the Company, the Lenders may transfer the New Notes to (i) any of their respective Affiliates or (ii) to "accredited investors" within the meaning of Rule 501 under the Securities Act who are approved in advance by the Company in writing, such approval not to be unreasonably withheld or delayed; provided, however, that any transferee pursuant to this Section 4.2(b) must first execute and deliver to the Company a lock-up agreement at least as restrictive as this Section 4.2.

(c) For the avoidance of doubt, this Section 4.2 shall not be construed, in and of itself, to limit any conversion of the New Notes or the Series Y Preferred.

4.3. **Short Sales**. Notwithstanding any provision of this Agreement to the contrary, each Lender hereby agrees that, without the prior written consent of the Company, such Lender will not, directly or indirectly (including by entering into agreement or understand with any other Person), execute any Short Sale with respect to securities of the Company from and after the date hereof.

4.4. **Furnishing of Information; Public Information**. Until no Lender owns Securities, the Company covenants to maintain the registration of the Common Stock under Section 12(b) or 12(g) of the Exchange Act and timely file (or obtain extensions in respect thereof and file within the applicable grace period) all reports required to be filed by the Company after the date hereof pursuant to the Exchange Act even if the Company is not then subject to the reporting requirements of the Exchange Act. As long as any Lender owns the Shares, if the Company is not required to file reports pursuant to the Exchange Act, it will prepare and furnish to such Lender and make publicly available in accordance with Rule 144(c) such information as is required for such Lender to sell the Shares, including without limitation, under Rule 144. The Company further covenants that it will take such further action as such Lender may reasonably request, to the extent required from time to time to enable such Lender to sell such Shares without registration under the Securities Act, including without limitation, within the requirements of the exemption provided by Rule 144.

4.5. **Integration**. The Company shall not sell, offer for sale or solicit offers to buy or otherwise negotiate in respect of any security (as defined in Section 2 of the Securities Act) that would be integrated with the offer or sale of the Securities in a manner that would require the registration under the Securities Act of the sale of the Securities or that would be integrated with the offer or sale of the Securities for purposes of the rules and regulations of any Trading Market such that it would require shareholder approval prior to the closing of such other transaction unless shareholder approval is obtained before the closing of such subsequent transaction.

4.6. **Securities Laws Disclosure; Publicity**. The Company shall (a) by 9:30 a.m. (New York City time) on the Trading Day immediately following the date hereof, issue a press release disclosing the material terms of the transactions contemplated hereby, and (b) within the time required by the Exchange Act, file a Current Report on Form 8-K, including the Transaction Documents as exhibits thereto, with the Commission. From and after the issuance of such press release, the Company represents to the Lenders that it shall have publicly disclosed all material, non-public information delivered to any of the Lenders by the Company, or any of its officers, directors, employees or agents. The Company and each Lender shall consult with each other in issuing any other press releases with respect to the transactions contemplated hereby, and neither the Company nor any Lender shall issue any such press release nor otherwise make any such public statement without the prior consent of the Company, with respect to any press release of any Lender, or without the prior consent of each Lender, with respect to any press release of the Company, which consent shall not unreasonably be withheld or delayed, except if such disclosure is required by law, in which case the disclosing Party shall promptly provide the other Party with prior notice of such public statement or communication. Notwithstanding the foregoing, the Company shall not, without the prior written consent of the Lenders, or to the extent consistent with past practice, use the name of a Lender or any of its Affiliates (or any other derivative name of a Lender or its Affiliates) in any press releases or other public disclosures (including in any filing with the Commission or any regulatory agency or Trading Market), offering documents, sales materials, brochures or similar publicity or promotional materials, or for promotional purposes, whether orally or in writing, except (i) as required by federal securities law in connection with the filing of final Transaction Documents with the Commission and (ii) to the extent such disclosure is required by law or Trading Market regulations, in which case the Company shall provide Lender with prior notice of such disclosure permitted under this clause (ii).

4.7. **Shareholder Rights Plan**. No claim will be made or enforced by the Company or, with the consent of the Company, any other Person, that any Lender is an "Acquiring Person" under any control share acquisition, business combination, poison pill (including any distribution under a rights agreement) or similar anti-takeover plan or arrangement in effect or hereafter adopted by the Company, or that any Lender could be deemed to trigger the provisions of any such plan or arrangement, by virtue of receiving Securities under the Transaction Documents or under any other agreement between the Company and the Lenders.

4.8. **Non-Public Information**. Except with respect to the material terms and conditions of the transactions contemplated by the Transaction Documents, which shall be disclosed pursuant to Section 4.6, the Company covenants and agrees that neither it, nor any other Person acting on its behalf will provide any Lender or its agents or counsel with any information that constitutes, or the Company reasonably believes constitutes, material non-public information, unless prior thereto such Lender shall have consented to the receipt of such information and agreed with the Company to keep such information confidential. The Company understands and confirms that each Lender shall be relying on the foregoing covenant in effecting transactions in securities of the Company. To the extent that the Company delivers any material, non-public information to a Lender without such Lender's consent, the Company hereby covenants and agrees that such Lender shall not have any duty of confidentiality to Company, any of its Subsidiaries, or any of their respective officers, directors, agents, employees or Affiliates, or a duty to the Company, and of its Subsidiaries or any of their respective officers, directors, agents, employees or Affiliates not to trade on the basis of, such material, non-public information, provided that the Lender shall remain subject to applicable law. To the extent that any notice provided pursuant to any Transaction Document constitutes, or contains, material, non-public information regarding the Company or any Subsidiaries, the Company shall simultaneously file such notice with the Commission pursuant to a Current Report on Form 8-K. The Company understands and confirms that each Lender shall be relying on the foregoing covenant in effecting transactions in securities of the Company.

4.9. **Indemnification of Lenders**. Subject to the provisions of this Section 4.9, the Company will defend, indemnify and hold each Lender and its directors, officers, shareholders, members, partners, employees and agents (and any other Persons with a functionally equivalent role of a Person holding such titles notwithstanding a lack of such title or any other title), each Person who controls such Lender (within the meaning of Section 15 of the Securities Act and Section 20 of the Exchange Act), and the directors, officers, shareholders, agents, members, partners or employees (and any other Persons with a functionally equivalent role of a Person holding such titles notwithstanding a lack of such title or any other title) of such controlling Persons (each, a "**Lender Party**") harmless from any and all losses, liabilities, obligations, claims, contingencies, damages, costs and expenses, including all judgments, amounts paid in settlements, court costs and reasonable attorneys' fees and costs of investigation that any such Lender Party may suffer or incur as a result of or relating to (a) any breach of any of the representations, warranties, covenants or agreements made by the Company in this Agreement or in the other Transaction Documents or (b) any action instituted against the Lender Parties in any capacity, or any of them or their respective Affiliates, by any shareholder of the Company who is not an Affiliate of such Lender Parties, with respect to any of the transactions contemplated by the Transaction Documents (unless such action is based upon a breach of such Lender Party's representations, warranties or covenants under the Transaction Documents or any agreements or understandings such Lender Parties may have with any such shareholder or any violations by such Lender Parties of state or federal securities laws or any conduct by such Lender Parties which constitutes fraud, gross negligence, willful misconduct or malfeasance). If any action shall be brought against any Lender Party in respect of which indemnity may be sought pursuant to this Agreement, such Lender Party shall promptly notify the Company in writing, and the Company shall have the right to assume the defense thereof with counsel of its own choosing reasonably acceptable to the Lender Party. Any Lender Party shall have the right to employ separate counsel in any such action and participate in the defense thereof, but the fees and expenses of such counsel shall be at the expense of such Lender Party except to the extent that (i) the employment thereof has been specifically authorized by the Company in writing, (ii) the Company has failed after a reasonable period of time to assume such defense and to employ counsel or (iii) in such action there is, in the reasonable opinion of counsel, a material conflict on any material issue between the position of the Company and the position of such Lender Party, in which case the Company shall be responsible for the reasonable fees and expenses of no more than one such separate counsel. The Company will not be liable to any Lender Party under this Agreement (1) for any settlement by a Lender Party effected without the Company's prior written consent, which shall not be unreasonably withheld or delayed; or (2) to the extent, but only to the extent that a loss, claim, damage or liability is attributable to (A) any Lender Party's breach of any of the representations, warranties, covenants or agreements made by such Lender Party in this Agreement or in the other Transaction Documents, or (B) any conduct by such Lender Party which constitutes gross negligence or willful misconduct. The indemnification required by this Section 4.9 shall be made by periodic payments of the amount thereof during the course of the investigation or defense, as and when bills are received or are incurred. The indemnity agreements contained herein shall be in addition to any cause of action or similar right of any Lender Party against the Company or others and any liabilities the Company may be subject to pursuant to law.

4.10. **Reservation and Listing of Securities**. The Company shall maintain and keep available at all times, free of preemptive rights, a reserve of the Required Minimum from its duly authorized shares of Common Stock for issuance pursuant to the Transaction Documents in such amount as may then be required to fulfill its obligations in full under the Transaction Documents.

4.11. **Listing of Common Stock**. The Company hereby agrees to use reasonable best efforts to maintain the listing or quotation of the Common Stock on the Trading Market on which it is currently listed, and concurrently with the Closing, the Company shall apply to list or quote all of the applicable Underlying Shares on such Trading Market and promptly secure the listing of all of such Underlying Shares on such Trading Market. The Company further agrees, if the Company applies to have the Common Stock traded on any other Trading Market, it will then include in such application all of the Underlying Shares, and will take such other action as is necessary to cause all of the Underlying Shares to be listed or quoted on such other Trading Market as promptly as possible. The Company will then take all reasonable best efforts necessary to continue the listing or quotation and trading of its Common Stock on a Trading Market and will comply in all respects with the Company's reporting, filing and other obligations under the bylaws or rules of the Trading Market. The Company agrees to maintain the eligibility of the Common Stock for electronic transfer through the Depository Trust Company or another established clearing corporation, including, without limitation, by timely payment of fees to the Depository Trust Company or such other established clearing corporation in connection with such electronic transfer.

4.12. **Conversion Procedures**. The form of notice of conversion included in the Certificate of Designations (the "**Notice of Conversion**") sets forth the totality of the procedures required of the Lenders in order to convert the Series Y Preferred. Without limiting the preceding sentences, no ink-original Notice of Conversion shall be required, nor shall any medallion guarantee (or other type of guarantee or notarization) of any Notice of Conversion form be required in order to convert the Series Y Preferred, unless required by the Transfer Agent. No additional legal opinion, other information or instructions shall be required of the Lenders to convert their Series Y Preferred. The Company shall honor conversions of the Series Y Preferred and shall deliver Underlying Shares in accordance with the terms, conditions and time periods set forth in the Transaction Documents. Notwithstanding the foregoing, the Parties acknowledge and agree that conversion of the Series Y Preferred shall be subject to any limitations on convertibility as set forth in the Certificate of Designations.

4.13. **Certain Transactions and Confidentiality**. Each Lender, severally and not jointly with the other Lenders, covenants that neither it, nor any Affiliate acting on its behalf or pursuant to any understanding with it will execute any purchases or sales, including Short Sales, of any of the Company's securities during the period commencing with the execution of this Agreement and ending at such time that the transactions contemplated by this Agreement are first publicly announced pursuant to the initial press release as described in Section 4.6. Each Lender, severally and not jointly with the other Lenders, covenants that until such time as the transactions contemplated by this Agreement are publicly disclosed by the Company pursuant to the initial press release as described in Section 4.6, such Lender will maintain the confidentiality of the existence and terms of this transaction and the information included in the Transaction Documents. Notwithstanding the foregoing, and notwithstanding anything contained in this Agreement to the contrary, the Company expressly acknowledges and agrees that (i) no Lender makes any representation, warranty or covenant hereby that it will not engage in effecting transactions in any securities of the Company after the time that the transactions contemplated by this Agreement are first publicly announced pursuant to the initial press release as described in Section 4.6, (ii) no Lender shall be restricted or prohibited from effecting any transactions in any securities of the Company in accordance with applicable securities laws from and after the time that the transactions contemplated by this Agreement are first publicly announced pursuant to the initial press release as described in Section 4.6 and (iii) no Lender shall have any duty of confidentiality or duty not to trade in the securities of the Company to the Company after the issuance of the initial press release as described in Section 4.6. Notwithstanding the foregoing, in the case of a Lender that is a multi-managed investment vehicle whereby separate portfolio managers manage separate portions of such Lender's assets and the portfolio managers have no direct knowledge of the investment decisions made by the portfolio managers managing other portions of such Lender's assets, the covenant set forth above shall only apply with respect to the portion of assets managed by the portfolio manager that made the investment decision to purchase the Securities covered by this Agreement.

4.14. **Form D; Blue Sky Filings**. The Company agrees to timely file a Form D with respect to the Securities as required under Regulation D and to provide a copy thereof, promptly upon request of any Lender. The Company shall take such action as the Company shall reasonably determine is necessary in order to obtain an exemption for, or to qualify the Securities for, sale to the Lenders at the Closing under applicable securities or "Blue Sky" laws of the states of the United States, and shall provide evidence of such actions promptly upon request of any Lender.

4.15. **Shareholder Approval**. No later than December 31, 2024, or such later date as agreed in writing by the Parties, the Company will hold a special meeting of shareholders (the "**Shareholder Meeting**"), the proxy materials for which shall include, in a form reasonably acceptable to the Lenders, a proposal soliciting the affirmative vote of the Company's shareholders in favor of resolutions ("**Shareholder Resolutions**") to approve the issuance of any and all Capped Shares (the "**Shareholder Approval**"). The Board of Directors shall recommend that the Company's shareholders vote in favor of the Shareholder Resolutions at the Shareholder Meeting and the Company shall use commercially reasonable efforts to obtain the Shareholder Approval.

4.16. **Intended Tax Treatment**.

(a) The Parties intend that, for U.S. federal (and applicable state and local) income tax purposes, (i) the issuance of the New Notes be treated as a "modification" but not a "significant modification" of a corresponding portion of the Promissory Note within the meaning of Treasury Regulations Section 1.1001-3, (ii) the issuance of the Shares be treated as the repayment of a portion of the Promissory Note for an amount equal to the value of the Shares as reasonably determined by Madryn in accordance with applicable law (the "**Intended Tax Treatment**").

(b) Each Party shall, and shall cause its Affiliates to, unless otherwise required by a final "determination" (within the meaning of Section 1313(a) of the Code (or any analogous or similar provision under applicable state or local income tax law)), (i) prepare and file all applicable tax returns in a manner consistent with the Intended Tax Treatment, and (ii) take no position in any applicable tax return, tax proceeding, or otherwise for applicable tax purposes that is inconsistent with the Intended Tax Treatment.

ARTICLE V.
MISCELLANEOUS

5.1. **Termination**. This Agreement shall terminate upon the earlier to occur of (a) the mutual written agreement of the Parties to terminate this Agreement and (b) the date following the Closing upon which no Lender holds any shares of Series Y Preferred or New Notes (the date of such termination, the "**Termination Date**"); provided, however, that the termination of this Agreement will not affect the right of any Party to sue for any breach by any other Party or Parties to the extent such breach occurred prior to the Termination Date.

5.2. **Fees and Expenses**. The Company shall pay all Transfer Agent fees (including, without limitation, any fees required for same-day processing of any instruction letter delivered by the Company and any Notice of Conversion delivered by a Lender), stamp taxes and other similar taxes and duties levied in connection with the delivery of any Securities to the Lenders. The Company shall pay (a) all reasonable and documented out-of-pocket expenses incurred by the Lenders (including the fees, charges and disbursements of one counsel in the aggregate for all Lenders and one local counsel if needed), in connection with (i) the preparation, negotiation, execution and delivery of this Agreement and the other Transaction Documents and (ii) any amendments, modifications or waivers of the provisions hereof or thereof (whether or not the transactions contemplated hereby or thereby shall be consummated) or the administration of this Agreement and the other Transaction Documents and (b) all reasonable and documented out-of-pocket expenses incurred by the Lenders (including the fees, charges and disbursements of one counsel in the aggregate for all Lenders other than local counsel), in connection with the enforcement or protection of their rights (i) in connection with this Agreement and the other Transaction Documents, including their rights under this Section 5.2 or (ii) in connection with the New Notes, including all such out-of-pocket expenses incurred during any arbitration, dispute resolution, workout, restructuring or negotiations in respect of such New Notes.

5.3. **Entire Agreement**. The Transaction Documents, together with the exhibits and schedules thereto, contain the entire understanding of the Parties with respect to the subject matter hereof and thereof and supersede all prior agreements and understandings, oral or written, with respect to such matters, which the Parties acknowledge have been merged into such documents, exhibits and schedules.

5.4. **Notices**. Any and all notices or other communications or deliveries required or permitted to be provided hereunder shall be in writing and shall be deemed given and effective on the earliest of: (a) the date of transmission, if such notice or communication is delivered via facsimile at the facsimile number or email attachment as set forth on the signature pages attached hereto at or prior to 5:30 p.m. (New York City time) on a Trading Day, (b) the next Trading Day after the date of transmission, if such notice or communication is delivered via facsimile at the facsimile number or email attachment as set forth on the signature pages attached hereto on a day that is not a Trading Day or later than 5:30 p.m. (New York City time) on any Trading Day, (c) the second (2nd) Trading Day following the date of mailing, if sent by U.S. nationally recognized overnight courier service or (d) upon actual receipt by the Party to whom such notice is required to be given. The address for such notices and communications shall be as set forth on the signature pages attached hereto.

5.5. **Amendments; Waivers**. No provision of this Agreement may be waived, modified, supplemented or amended except in a written instrument signed, in the case of an amendment, by the Company and the Lenders holding a majority of the Series Y Preferred then outstanding and the Lenders holding a majority of the New Notes then outstanding, or in the case of a waiver, by the Party against whom enforcement of any such waived provision is sought; provided, however, that if any amendment, modification or waiver disproportionately and adversely impacts a Lender (or group of Lenders), the consent of such disproportionately impacted Lender (or group of Lenders) shall also be required. No waiver of any default with respect to any provision, condition or requirement of this Agreement shall be deemed to be a continuing waiver in the future or a waiver of any subsequent default or a waiver of any other provision, condition or requirement hereof, nor shall any delay or omission of any Party to exercise any right hereunder in any manner impair the exercise of any such right. Any proposed amendment or waiver that disproportionately, materially and adversely affects the rights and obligations of any Lender relative to the comparable rights and obligations of the other Lenders shall require the prior written consent of such adversely affected Lender. Any amendment effected in accordance with this Section 5.5 shall be binding upon each Lender and holder of Securities and the Company.

5.6. **Successors and Assigns**. This Agreement shall be binding upon and inure to the benefit of the Parties and their successors and permitted assigns. The Company may not assign this Agreement or any rights or obligations hereunder without the prior written consent of each Lender (other than by merger). Any Lender may assign any or all of its rights under this Agreement to any Person to whom such Lender assigns or transfers any Securities, provided that such transferee agrees in writing to be bound, with respect to the transferred Securities, by the provisions of the Transaction Documents that apply to the "Lenders."

5.7. **No Third-Party Beneficiaries**. This Agreement is intended for the benefit of the Parties and their respective successors and permitted assigns and is not for the benefit of, nor may any provision hereof be enforced by, any other Person, except as otherwise set forth in Section 4.9.

5.8. **Governing Law**. All questions concerning the construction, validity, enforcement and interpretation of the Transaction Documents shall be governed by and construed and enforced in accordance with the internal laws of the State of New York, without regard to the principles of conflicts of law thereof. Each Party agrees that all legal Proceedings concerning the interpretations, enforcement and defense of the transactions contemplated by this Agreement and any other Transaction Documents (whether brought against a Party or its respective affiliates, directors, officers, shareholders, partners, members, employees or agents) shall be commenced exclusively in the state and federal courts sitting in the City of New York. Each Party hereby irrevocably submits to the exclusive jurisdiction of the state and federal courts sitting in the City of New York, Borough of Manhattan for the adjudication of any dispute hereunder or in connection herewith or with any transaction contemplated hereby or discussed herein (including with respect to the enforcement of any of the Transaction Documents), and hereby irrevocably waives, and agrees not to assert in any Proceeding, any claim that it is not personally subject to the jurisdiction of any such court, that such Proceeding is improper or is an inconvenient venue for such Proceeding. Each Party hereby irrevocably waives personal service of process and consents to process being served in any such Proceeding by mailing a copy thereof via registered or certified mail or overnight delivery (with evidence of delivery) to such Party at the address in effect for notices to it under this Agreement and agrees that such service shall constitute good and sufficient service of process and notice thereof. Nothing contained herein shall be deemed to limit in any way any right to serve process in any other manner permitted by law. If any Party hereto shall commence a Proceeding to enforce any provisions of the Transaction Documents, then, in addition to the obligations of the Company under Section 4.9, the prevailing Party in such Proceeding shall be reimbursed by the non-prevailing Party for its reasonable attorneys' fees and other costs and expenses incurred with the investigation, preparation and prosecution of such Proceeding.

5.9. **Survival**. The representations and warranties contained herein shall survive the Closing and the delivery of the Securities.

5.10. **Execution**. This Agreement may be executed in two or more counterparts, all of which when taken together shall be considered one and the same agreement and shall become effective when counterparts have been signed by each Party and delivered to each other Party, it being understood that the Parties need not sign the same counterpart. In the event that any signature is delivered by facsimile transmission or by e-mail delivery of a ".pdf" format data file, such signature shall create a valid and binding obligation of the Party executing (or on whose behalf such signature is executed) with the same force and effect as if such facsimile or ".pdf" signature page were an original thereof.

5.11. **Severability**. If any term, provision, covenant or restriction of this Agreement is held by a court of competent jurisdiction to be invalid, illegal, void or unenforceable, the remainder of the terms, provisions, covenants and restrictions set forth herein shall remain in full force and effect and shall in no way be affected, impaired or invalidated, and the Parties shall use their commercially reasonable efforts to find and employ an alternative means to achieve the same or substantially the same result as that contemplated by such term, provision, covenant or restriction. It is hereby stipulated and declared to be the intention of the Parties that they would have executed the remaining terms, provisions, covenants and restrictions without including any of such that may be hereafter declared invalid, illegal, void or unenforceable.

5.12. **Rescission and Withdrawal Right**. Notwithstanding anything to the contrary contained in (and without limiting any similar provisions of) any of the other Transaction Documents, whenever any Lender exercises a right, election, demand or option under a Transaction Document and the Company does not timely perform its related obligations within the periods therein provided, then such Lender may rescind or withdraw, in its sole discretion from time to time upon written notice to the Company, any relevant notice, demand or election in whole or in part without prejudice to its future actions and rights; provided, however, that in the case of a rescission of a conversion of shares of Series Y Preferred, the applicable Lender shall be required to return any Underlying Shares subject to any such rescinded Notice of Conversion concurrently therewith.

5.13. **Replacement of Securities**. If any certificate or instrument evidencing any Securities is mutilated, lost, stolen or destroyed, the Company shall issue or cause to be issued in exchange and substitution for and upon cancellation thereof (in the case of mutilation), or in lieu of and substitution therefor, a new certificate or instrument, but only upon receipt of evidence reasonably satisfactory to the Company of such loss, theft or destruction. The applicant for a new certificate or instrument under such circumstances shall also pay any reasonable third-party costs (including customary indemnity) associated with the issuance of such replacement Securities.

5.14. **Remedies**. In addition to being entitled to exercise all rights provided herein or granted by law, including recovery of damages, each of the Lenders and the Company will be entitled to specific performance under the Transaction Documents. The Parties agree that monetary damages may not be adequate compensation for any loss incurred by reason of any breach of obligations contained in the Transaction Documents and hereby agree to waive and not to assert in any Action for specific performance of any such obligation the defense that a remedy at law would be adequate.

5.15. **Payment Set Aside**. To the extent that the Company makes a payment or payments to any Lender pursuant to any Transaction Document or a Lender enforces or exercises its rights thereunder, and such payment or payments or the proceeds of such enforcement or exercise or any part thereof are subsequently invalidated, declared to be fraudulent or preferential, set aside, recovered from, disgorged by or are required to be refunded, repaid or otherwise restored to the Company, a trustee, receiver or any other Person under any law (including, without limitation, any bankruptcy law, state or federal law, common law or equitable cause of action), then to the extent of any such restoration the obligation or part thereof originally intended to be satisfied shall be revived and continued in full force and effect as if such payment had not been made or such enforcement or setoff had not occurred.

5.16. **Independent Nature of Lenders' Obligations and Rights**. The obligations of each Lender under any Transaction Document are several and not joint with the obligations of any other Lender, and no Lender shall be responsible in any way for the performance or non-performance of the obligations of any other Lender under any Transaction Document. Nothing contained herein or in any other Transaction Document, and no action taken by any Lender pursuant hereof or thereto, shall be deemed to constitute the Lenders as a partnership, an association, a joint venture or any other kind of entity, or create a presumption that the Lenders are in any way acting in concert or as a group with respect to such obligations or the transactions contemplated by the Transaction Documents. Each Lender shall be entitled to independently protect and enforce its rights, including, without limitation, the rights arising out of this Agreement or out of the other Transaction Documents, and it shall not be necessary for any other Lender to be joined as an additional party in any proceeding for such purpose. Each Lender has been represented by its own separate legal counsel in its review and negotiation of the Transaction Documents. The Company has elected to provide all Lenders with the same terms and Transaction Documents for the convenience of the Company and not because it was required or requested to do so by any of the Lenders. It is expressly understood and agreed that each provision contained in this Agreement and in each other Transaction Document is between the Company and a Lender, solely, and not between the Company and the Lenders collectively and not between and among the Lenders.

5.17. **Stock Splits, Etc**. Each and every reference to share prices and shares of Common Stock in any Transaction Document shall be subject to equitable adjustment for reverse and forward stock splits, stock dividends, stock combinations and other similar transactions of the Common Stock that occur after the date hereof.

5.18. **Saturdays, Sundays, Holidays, etc**. If the last or appointed day for the taking of any action or the expiration of any right required or granted herein shall not be a Business Day, then such action may be taken or such right may be exercised on the next succeeding Business Day.

5.19. **Construction**. The Parties agree that each of them or their respective counsel have reviewed and had an opportunity to revise the Transaction Documents and, therefore, the normal rule of construction to the effect that any ambiguities are to be resolved against the drafting Party shall not be employed in the interpretation of the Transaction Documents or any amendments thereto. The headings herein are for convenience only, do not constitute a part of this Agreement and shall not be deemed to limit or affect any of the provisions hereof. As used in this Agreement, the words "including" or "includes" shall be deemed followed by "without limitation," the word "or" shall be deemed to mean "and / or," and "$" shall refer to United States dollars.

5.20. **WAIVER OF JURY TRIAL. IN ANY ACTION, SUIT, OR PROCEEDING IN ANY JURISDICTION BROUGHT BY ANY PARTY AGAINST ANY OTHER PARTY, THE PARTIES EACH KNOWINGLY AND INTENTIONALLY, TO THE GREATEST EXTENT PERMITTED BY APPLICABLE LAW, HEREBY ABSOLUTELY, UNCONDITIONALLY, IRREVOCABLY AND EXPRESSLY WAIVES FOREVER TRIAL BY JURY.**

[no further text on this page]

IN WITNESS WHEREOF, the Parties have caused this Exchange Agreement to be duly executed by their respective authorized signatories as of the date first indicated above.

VENUS CONCEPT INC.

By: */s/ Rajiv De Silva*
Name: Rajiv De Silva
Title: Chief Executive Officer

Address for Notice:

Venus Concept Inc.
235 Yorkland Blvd., Suite 900
Toronto, Ontario, Canada
M2J 4Y8
Attn: General Counsel and Corporate Secretary
Email: [redacted]

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

Dorsey & Whitney LLP
TD Canada Trust Tower
Brookfield Place 161 Bay Street, Suite 4310
Toronto, ON M5J 2S1
Attn: Richard Raymer
Email: [redacted]

VENUS CONCEPT USA INC.

By: */s/ Rajiv De Silva*
Name: Rajiv De Silva
Title: Chief Executive Officer

Address for Notice:

Venus Concept Inc.
235 Yorkland Blvd., Suite 900
Toronto, Ontario, Canada
M2J 4Y8
Attn: General Counsel and Corporate Secretary
Email: [redacted]

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

Dorsey & Whitney LLP
TD Canada Trust Tower
Brookfield Place 161 Bay Street, Suite 4310
Toronto, ON M5J 2S1
Attn: Richard Raymer
Email: [redacted]

IN WITNESS WHEREOF, the Parties have caused this Exchange Agreement to be duly executed by their respective authorized signatories as of the date first indicated above.

MADRYN HEALTH PARTNERS, LP

By: Madryn Health Advisors, LP,
its General Partner

By: Madryn Health Advisors GP, LLC,
its General Partner

By: */s/ Avinash Amin*
Name: Avinash Amin
Title: Member

Address for Notice:

Madryn Asset Management, LP
330 Madison Avenue, 33rd Floor
New York, NY 10017
Attn: Avinash Amin
Email: [redacted]

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

Moore & Van Allen PLLC
100 North Tyron Street, Suite 4700
Charlotte, NC 28202
Attn: Tripp Monroe
Email: [redacted]

MADRYN HEALTH PARTNERS (CAYMAN MASTER), LP

By: Madryn Health Advisors, LP,
its General Partner

By: Madryn Health Advisors GP, LLC,
its General Partner

By: */s/Avinash Amin*
Name: Avinash Amin
Title: Member

Address for Notice:

Madryn Asset Management, LP
330 Madison Avenue, 33rd Floor
New York, NY 10017
Attn: Avinash Amin
Email: [redacted]

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

Moore & Van Allen PLLC
100 North Tyron Street, Suite 4700
Charlotte, NC 28202
Attn: Tripp Monroe
Email: [redacted]

Exhibit 10.2

PROMISSORY NOTE
[MAIN STREET PRIORITY LOAN FACILITY]

Certificate No.:	[1]/[2]
Original Issuance Date:	December 8, 2020
Effective Date:	May 24, 2024
Amount of Note:	[TEN MILLION SEVEN HUNDRED NINETY-NINE THOUSAND FOUR HUNDRED SIXTY SIX AND 00/100 DOLLARS ($10,799,466.00)]/[SIX MILLION THREE HUNDRED FORTY TWO THOUSAND FIVE HUNDRED FORTY THREE AND 00/100 DOLLARS ($6,342,543.00)]

FOR VALUE RECEIVED, VENUS CONCEPT USA INC., a Delaware corporation (the "Borrower") hereby covenants and promises to pay to the order [MADRYN HEALTH PARTNERS (Cayman Master), LP]/[MADRYN HEALTH PARTNERS, LP], its successors and/or assigns (the "Lender"), at 330 Madison Avenue, 33rd Floor, New York, NY 10017, or at such other place as Lender may designate to Borrower in writing from time to time, in legal tender of the United States, [TEN MILLION SEVEN HUNDRED NINETY-NINE THOUSAND FOUR HUNDRED SIXTY SIX AND 00/100 DOLLARS ($10,799,466.00)]/[SIX MILLION THREE HUNDRED FORTY TWO THOUSAND FIVE HUNDRED FORTY THREE AND 00/100 DOLLARS ($6,342,543.00)], together with all accrued interest, which shall be due and payable upon the following terms and conditions contained in this Promissory Note (this "Note") and the Loan Agreement (as defined herein). Any capitalized term not otherwise defined herein shall have the meaning given to such term in the Loan Agreement. This Note is issued pursuant to that certain Exchange Agreement dated as of the Effective Date by and among, inter alios, the Borrower and the Lender.

A. Interest Rate:

(a) Interest shall accrue on the unpaid principal balance of this Note from October 4, 2023 at a variable rate per annum equal to the Term SOFR Rate (as defined below), plus three and one quarter percent (3.25%) (the "Interest Rate Margin") (as the same may be modified as set forth below, the "Interest Rate"). The Interest Rate is subject to adjustment from time to time based on changes in Term SOFR. Such adjustments shall be made on the 8th day of every month (the "Reset Date"), beginning October 8, 2023.

(b) As used herein, "Term SOFR Rate" means the rate of interest per annum equal to the 1-Month Term SOFR, as published by CME Group Benchmarks Administration Limited (or a successive administrator designated by the relevant authority) for the date that is two (2) U.S. Government Securities Business Days prior to the Reset Date. The Interest Rate will be effective on and from October 4, 2023, based on the most recent rate information available, and will be effective until day immediately preceding the next Reset Date. The interest rate shall thereafter be adjusted on each Reset Date to the current Term SOFR Rate or, if applicable, the current Term SOFR Successor Rate (as defined below), plus the Interest Rate Margin, or, if applicable, the Successor Interest Rate Margin (as defined below), based on the most recent rate information available on the date that the interest rate is adjusted and such rate shall be effective until the day immediately preceding the next Reset Date.

(c) If the Lender determines in good faith (which determination shall be conclusive, absent manifest error) that: (A) adequate and fair means do not exist for ascertaining Term SOFR; (B) Term SOFR does not accurately reflect the cost to the Lender of the Loan; or (C) a Regulatory Change (as hereinafter defined) shall, in the reasonable determination of the Lender, make it unlawful or commercially unreasonable for the Lender to use Term SOFR as the index for purposes of determining the Interest Rate, then: (i) Term SOFR shall be replaced with an alternative or successor rate or index chosen by the Lender in its reasonable discretion (the "Term SOFR Successor Rate"); and (ii) the Interest Rate Margin may also be adjusted by Lender in its reasonable discretion, giving due consideration to market convention for determining rates of interest on comparable loans (the "Successor Interest Rate Margin"). "Regulatory Change" shall mean a change in any applicable law, treaty, rule, regulation or guideline, or the interpretation or administration thereof, by the administrator of the relevant benchmark or its regulatory supervisor, any governmental authority, central bank or other fiscal, monetary or other authority having jurisdiction over Lender or its lending office.

(d) For purposes hereof, "U.S. Government Securities Business Day" means any day except for (i) a Saturday, (ii) a Sunday or (iii) a day on which the Securities Industry and Financial Markets Association recommends that the fixed income departments of its members be closed for the entire day for purposes of trading in United States government securities.

B. [Reserved].

C. Payment Terms:

Commencing on January 8, 2022, and continuing on the eighth (8th) day of each month thereafter, Borrower shall make consecutive monthly payments of accrual interest. In addition to the monthly payments of accrued interest, on December 8, 2023, and December 8, 2024 (each a "Principal Payment Date"), Borrower shall make an annual payment of principal, inclusive of Capitalized Interest (as defined below), in an amount equal to fifteen percent (15%) of the outstanding principal balance of this Note (inclusive of Capitalized Interest) as of the respective Principal Payment Date. In addition to the monthly payments of accrued interest, on December 8, 2024 (the "Principal Payment Date"), the Borrower shall make an annual payment of principal, inclusive of Capitalized Interest (as defined below) in an amount equal to seven and a half percent (7.5%) of the outstanding principal balance of this Note (inclusive of Capitalized Interest) as of the Principal Payment Date. Unless otherwise expressly agreed in writing, the payments due hereunder shall be paid in cash by Borrower to Lender.

D. Loan Documents:

This Note, that certain Loan and Security Agreement dated as of the Original Issuance Date by and between Borrower and Lender (as the same may be amended, restated, modified or replaced from time to time, the "Loan Agreement"), the Guaranty (as defined in the Loan Agreement), the Financing Statement(s) (as defined in the Loan Agreement), and all other documents and instruments executed in connection with this Note are hereinafter individually and/or collectively referred to as the "Loan Documents".

E. Default Interest Rate:

All principal and installments of interest shall bear interest from the date that said payments are due and unpaid or from the date of occurrence of any other Event of Default (as hereinafter defined) under this Note or any other Loan Document, at a rate equal to the highest rate authorized by applicable law (the "Default Rate").

F. Prepayment:

The Borrower may prepay all or any portion of this Note at any time without fee, premium or penalty.

G. Late Charges:

Lender may collect a late charge not to exceed an amount equal to five percent (5%) of any installment which is not paid within ten (10) days of the due date thereof, to cover the extra expense involved in handling delinquent payments, provided that collection of said late charge shall not be deemed a waiver by Lender of any of its rights under this Note. Notwithstanding the foregoing, there shall be no grace period or late charges for payments due on the outstanding principal balance due on the Maturity Date or upon acceleration, as set forth in Section H below, but such outstanding balance shall accrue interest at the Default Rate. The late charge is intended to compensate the Lender for administrative and processing costs incident to late payments. The late charge payments are not interest. The late charge payment shall not be subject to rebate or credit against any other amount due. Any late charge shall be in addition to any other interest due.

H. Default and Acceleration:

If any of the following "Events of Default" occur, at the Lender's option, exercisable in its sole discretion, all sums of principal and interest under this Note shall be accelerated and become immediately due and payable without notice of default, presentment or demand for payment, protest or notice of nonpayment or dishonor, or other notices or demands of any kind or character, and the Lender shall be immediately entitled to exercise all of its available remedies under the Loan Documents:

a. Borrower fails to perform any obligation under this Note to pay principal or interest when due; or

b. Borrower fails to perform any other obligation, liability or indebtedness under the Loan Documents to pay money when due beyond any applicable notice and cure periods; or

c. A "Default" or an "Event of Default" (as defined in each respective document) beyond any applicable notice and cure period occurs under any of the Loan Agreement or any of the Loan Documents; or

d. Borrower fails to comply with the terms and conditions of the Facility.

In any such event, all sums of principal and interest under this Note shall automatically become immediately due and payable without notice of default, presentment or demand for payment, protest or notice of nonpayment or dishonor, or other notices or demands of any kind or character. All persons now or at any time liable for payment of this Note hereby waive presentment, protest, notice of protest and dishonor. The Borrower expressly consents to any extension or renewal, in whole or in part, and all delays in time of payment or other performance which Lender may grant at any time and from time to time without limitation and without any notice or further consent of the undersigned.

The remedies of Lender as provided herein, or in the Loan Agreement or the other Loan Documents shall be cumulative and concurrent and may be pursued singularly, successively or together, at the sole discretion of Lender, and may be exercised as often as the occasion therefor shall arise.

The Lender may, in the sole discretion of Lender, accept payments made by Borrower after any default has occurred, without waiving any of Lender's rights herein.

I. Costs:

In the event that this Note is collected by law or through attorneys at law, or under advice therefrom (whether such attorneys are employees of Lender or an affiliate of Lender or are outside counsel), Borrower and any endorser, guarantor or other person primarily or secondarily liable for payment hereof hereby, severally and jointly agree to pay all costs of collection, including attorneys' fees, including charges for paralegals, appraisers, experts and consultants working under the direction or supervision of Lender's attorneys whether or not suit is brought, and whether incurred in connection with collection, trial, appeal, bankruptcy or other creditors' proceedings or otherwise.

J. Loan Charges:

Nothing herein contained, nor any transaction related thereto, shall be construed or so operate as to require Borrower or any person liable for the repayment of same, to pay interest in an amount or at a rate greater than the maximum allowed by applicable law. Should any interest or other charges paid by Borrower, or any parties liable for the payment of the loan made pursuant to this Note, result in the computation or earning of interest in excess of the maximum legal rate of interest permitted under the law in effect while said interest is being earned, then any and all of such excess shall be and is waived by Lender, and all such excess shall be automatically credited against and in reduction of the principal balance, and any portion of the excess that exceeds the principal balance shall be paid by Lender to Borrower or any parties liable for the payment of the loan made pursuant to this Note so that under no circumstances shall the Borrower, or any parties liable for the payment of the loan hereunder, be required to pay interest in excess of the maximum rate allowed by applicable law.

K. Jurisdiction:

The laws of the State of New York shall govern the interpretation and enforcement of this Note. In the event that legal action is instituted to collect any amounts due under, or to enforce any provision of, this instrument, Borrower and any endorser, guarantor or other person primarily or secondarily liable for payment hereof consent to, and by execution hereof submit themselves to, the jurisdiction of the courts of the State of New York, and, notwithstanding the place of residence of any of them or the place of execution of this instrument, such litigation may be brought in or transferred to a court of competent jurisdiction in and for The City of New York, Borough of Manhattan.

L. Assignment:

Lender shall have the unrestricted right at any time and from time to time and without Borrower's or any Guarantor's consent, to assign all or any portion of its rights and obligations hereunder to one or more lenders or purchasers (each, an "Assignee") under this Note and the Loan Documents and all information now or hereafter in its possession relating to the Borrower and the Guarantors (all rights of privacy hereby being waived), and to retain any compensation received by Lender in connection with any such transaction and Borrower and each Guarantor agree that they shall execute such documents, including without limitation, the delivery of an estoppel certificate and such other documents as Lender shall deem necessary to effect the foregoing. The Borrower hereby waives any notice of the transfer of this Note by the Lender or by any other subsequent holder of this Note and agrees to be bound by the terms of this Note subsequent to any transfer and agrees that the terms of this Note maybe fully enforced by any subsequent holder of this Note.

M. Non-Waiver:

The failure at any time of Lender to exercise any of its options or any other rights hereunder shall not constitute a waiver thereof, nor shall it be a bar to the exercise of any of its options or rights at a later date. All rights and remedies of Lender shall be cumulative and may be pursued singly, successively or together, at the option of Lender.

N. Right of Setoff:

In addition to all liens upon and rights of setoff against the Borrower's money, securities or other property given to the Lender by law, the Lender shall have, with respect to the Borrower's obligations to the Lender under this Note and to the extent permitted by law, a contractual possessory security interest in and a contractual right of setoff against, and the Borrower hereby grants the Lender a security interest in, and hereby assigns, conveys, delivers, pledges and transfers to the Lender, all of the Borrower's right, title and interest in and to, all of the Borrower's deposits, moneys, securities and other property now or hereafter in the possession of or on deposit with, or in transit to, the Lender, whether held in a general or special account or deposit, whether held jointly with someone else, or whether held for safekeeping or otherwise, excluding, however, all IRA, Keogh, and trust accounts. Every such security interest and right of setoff may be exercised without demand upon or notice to the Borrower. Every such right of setoff shall be deemed to have been exercised immediately upon the occurrence of an Event of Default hereunder without any action of the Lender, although the Lender may enter such setoff on its books and records at a later time.

O. Miscellaneous:

1. This is a secured promissory note.

2. TIME IS OF THE ESSENCE OF THIS NOTE.

3. It is agreed that the granting to Borrower or any other party of an extension or extensions of time for the payment of any sum or sums due under this Note or for the performance of any covenant or stipulation thereof or the taking of other or additional security shall not in any way release or affect the liability of Borrower under this Note or any of the Loan Documents.

4. This Note may not be changed orally, but only by an agreement in writing, signed by the party against whom enforcement of any waiver, change, modification or discharge is sought.

5. All parties to this Note, whether Borrower, principal, surety, guarantor or endorser, hereby waive presentment for payment, demand, notice, protest, notice of protest and notice of dishonor.

6. Borrower acknowledges that Lender shall have no obligation whatsoever to renew, modify or extend this Note or to refinance the indebtedness under this Note upon the maturity thereof, except as specifically provided herein.

7. Lender shall have the right to accept and apply to the outstanding balance of this Note and all payments or partial payments received from Borrower after the due date therefor, whether this Note has been accelerated or not, without waiver of any of Lender's rights to continue to enforce the terms of this Note and to seek any and all remedies provided for herein or in any instrument securing the same, including, but not limited to, the right to foreclose on such security.

8. All amounts received by Lender shall be applied to expenses, late fees and interest before principal or in any other order as determined by Lender, in its sole discretion, as permitted by law.

9. Borrower shall not assign Borrower's rights or obligations under this Note without Lender's prior consent.

10. The term "Borrower" as used herein, in every instance shall include the makers of this Note, and its heirs, executors, administrators, successors, legal representatives and assigns, and shall denote the singular and/or plural, the masculine and/or feminine, and natural and/or artificial persons whenever and wherever the context so requires or admits.

11. If more than one party executes this Note, all such parties shall be jointly and severally liable for the payment of this Note.

12. If any clause or provision herein contained operates or would prospectively operate to invalidate this Note in part, then the invalid part of said clause or provision only shall be held for naught, as though not contained herein, and the remainder of this Note shall remain operative and in full force and effect.

13. This Note may be executed in counterparts. Each executed counterpart of this Note will constitute an original document, and all executed counterparts, together, will constitute the same agreement. This Note may be executed and delivered by electronic signature, and such electronic signature(s) shall be deemed an original signature for purposes of this Note and all matters related thereto, with such electronic signature(s) having the same legal effect as an original signature.

P. Waiver of Jury Trial:

BORROWER AND LENDER HEREBY KNOWINGLY, VOLUNTARILY AND INTENTIONALLY WAIVE THE RIGHT EITHER MAY HAVE TO A TRIAL BY JURY IN RESPECT OF ANY LITIGATION BASED HEREON OR ARISING OUT OF, UNDER OR IN CONNECTION WITH THIS NOTE AND ANY AGREEMENT CONTEMPLATED TO BE EXECUTED IN CONJUNCTION HEREWITH, OR ANY COURSE OF CONDUCT, COURSE OF DEALING, STATEMENTS (WHETHER VERBAL OR WRITTEN) OR ACTIONS OF EITHER PARTY. THIS PROVISION IS A MATERIAL INDUCEMENT FOR LENDER TO EXTEND TO BORROWER THE LOAN EVIDENCED BY THIS NOTE.

[CONTINUES ON FOLLOWING PAGE]

Borrower has duly executed this Note effective as of the date set forth hereinabove.

BORROWER:

VENUS CONCEPT USA INC., a Delaware corporation

By: _____
Name:
Title:

Exhibit 10.3

RESALE REGISTRATION RIGHTS AGREEMENT

THIS RESALE REGISTRATION RIGHTS AGREEMENT, dated as of May 24, 2024 (this "**Agreement**"), has been entered into by and among Venus Concept Inc., a Delaware corporation (the "**Company**"), Madryn Health Partners, LP ("**Madryn**") and Madryn Health Partners (Cayman Master), LP ("**Madryn Cayman**," and together with Madryn, the "**Lenders**").

BACKGROUND

In connection with the Exchange Agreement, dated as of May 24, 2024 (the "**Exchange Agreement**"), by and among the Company, Venus Concept USA Inc., a wholly-owned subsidiary of the Company ("**Venus USA**"), and the Holders, (i) the Lenders have exchange a promissory note issued by Venus USA for new promissory notes issued by Venus USA and an aggregate of 576,986 shares of Series Y Preferred Stock of the Company (the "**Preferred Stock**"), and (ii) the Company has agreed to provide to the Lenders certain resale registration rights under the Securities Act of 1933, as amended, and the rules and regulations thereunder (together, the "**Securities Act**"), and applicable state securities laws with respect to the Shares (as defined below).

AGREEMENT

In light of the above, the Company and the Lenders hereby agree as follows:

1. Definitions.

As used in this Agreement, the following terms will have the respective meanings set forth in this Section 1:

"**Agreement**" has the meaning set forth in the preamble.

"**Advice**" has the meaning set forth in Section 2(d)(iv).

"**Blue Sky**" has the meaning set forth in Section 3(l).

"**Business Day**" means (i) a day on which the Common Stock is traded on a Trading Market, (ii) if the Common Stock is not listed on any Trading Market, a day on which the Common Stock is quoted in the over-the-counter market as reported by the National Quotation Bureau Incorporated (or any similar organization or agency succeeding to its functions of reporting prices) or (iii) in the event that the Common Stock is not listed or quoted as set forth in (i) and (ii) hereof, any day other than a Saturday, a Sunday or a day on which banking institutions in The City of New York are authorized or required by law, regulation or executive order to remain closed.

"**Claim**" has the meaning set forth in Section 5(b).

"**Commission**" means the Securities and Exchange Commission or any successor agency.

"**Commission Guidance**" means (i) any publicly available written or oral guidance of the staff of the Commission staff, or any comments, requirements or requests of the Commission staff whether formally or informally or publicly or privately, and (ii) the Securities Act.

"**Common Stock**" means the Company's common stock, par value $0.0001 per share.

"**Company**" has the meaning set forth in the preamble.

"**Demand Registration Notice**" has the meaning set forth in Section 2(e)(i).

"**Demand Registration Statement**" means each registration statement under the Securities Act that is designated by the Company for the registration, under the Securities Act, of any Demand Offering pursuant to Section 2(e).

"**Demand Offering**" has the meaning set forth in Section 2(e)(i).

"**Demand Offering Holders**" has the meaning set forth in Section 2(e)(iv)(1).

"**Demanding Notice Holders**" has the meaning set forth in Section 2(e)(i).

"**Discontinuance Notice**" has the meaning set forth in Section 3(d).

"**Effective Date**" means, with respect to any Registration Statement, the date on which the Commission first declares effective such Registration Statement.

"**Effectiveness Deadline**" means, with respect to a Registration Statement filed pursuant to Section 2(a), ninety (90) calendar days after the Filing Deadline in the case of a filing on Form S-3 and one hundred twenty (120) calendar days after the Filing Deadline in the case of a filing on Form S-1.

"**Effectiveness Period**" has the meaning set forth in Section 2(a).

"**Exchange Act**" means the Securities Exchange Act of 1934, as amended, and the rules and regulations promulgated thereunder.

"**Exchange Agreement**" has the meaning set forth in the preamble.

"**Filing Deadline**" means the date that is 60 days following the conversion of all of the issued and outstanding Preferred Stock into Shares.

"**FINRA**" means the Financial Industry Regulatory Authority, Inc. or any successor organization performing similar functions.

"**Holder**" or "**Holders**" means the holder or holders, as the case may be, from time to time of Registrable Securities.

"**Indemnified Party**" has the meaning set forth in Section 5(c).

"**Indemnifying Party**" has the meaning set forth in Section 5(c).

"Initial Registration Statement" has the meaning set forth in the definition of "Registration Statement."

"**Lenders**" has the meaning set forth in the preamble.

"**Losses**" has the meaning set forth in Section 5(a).

"**Madryn**" has the meaning set forth in the preamble.

"**Madryn Cayman**" has the meaning set forth in the preamble.

"**Majority Holders**" means any one or more Holders holding more than 50% of the Registrable Securities.

"**Maximum Successful Underwritten Offering Size**" means, with respect to any Underwritten Offering, the maximum number of securities that, in the managing underwriter's or underwriters' reasonable good faith opinion, which is provided in writing, may be sold in such Underwritten Offering without adversely affecting the success of such offering.

"**Person**" means any individual, corporation, partnership, limited liability company, joint venture, association, joint-stock company, trust, unincorporated organization or government or other agency or political subdivision thereof. Any division or series of a limited liability company, limited partnership or trust will constitute a separate "Person" under this Agreement.

"**Plan of Distribution**" has the meaning set forth in Section 2(a).

"**Preferred Stock**" has the meaning set forth in the preamble.

"**Proceeding**" means an action, claim, suit, investigation or proceeding (including, without limitation, an investigation or partial proceeding, such as a deposition), whether commenced or threatened.

"**Prospectus**" means the prospectus included in a Registration Statement (including, without limitation, any preliminary prospectus, any free-writing prospectus and any prospectus that includes any information previously omitted from a prospectus filed as part of an effective registration statement under the Securities Act), as amended or supplemented by any prospectus supplement, with respect to the terms of the offering of any portion of the Registrable Securities covered by a Registration Statement, and all other amendments and supplements to such prospectus, including post-effective amendments, and all material incorporated by reference or deemed to be incorporated by reference in such prospectus.

"**Registrable Securities**" means any Shares and any shares of capital stock issued or issuable with respect to Shares as a result of any stock split, stock dividend, recapitalization, exchange or similar event or otherwise. As to any particular Registrable Securities, such securities shall cease to be Registrable Securities when (i) the Commission has declared a Registration Statement covering such securities effective and such securities have been disposed of pursuant to such effective Registration Statement; (ii) such securities are sold under circumstances in which all of the applicable conditions of Rule 144 under the Securities Act are met and the legend restricting further transfer has been removed from the certificate for such securities; or (iii) such securities are no longer outstanding. For the avoidance of doubt, "**Registrable Securities**" shall not include any Shares or shares of capital stock issued or issuable with respect to Shares which cannot be registered for resale on a Registration Statement as of the Filing Deadline under applicable Commission Guidance.

"**Registration Default**" has the meaning set forth in Section 2(c)(iv).

"**Registration Statement**" means a registration statement filed pursuant to the terms hereof and which covers the resale of Registrable Securities by the Holders, including the Prospectus, amendments and supplements to such registration statement or Prospectus, including pre- and post-effective amendments, all exhibits thereto and all material incorporated by reference (or deemed to be incorporated by reference) therein. For the avoidance of doubt, "Registration Statement" means the Initial Registration Statement and any additional registration statement or registration statement, if any, that the Company is obligated to file under this Agreement with respect to the Registrable Securities, with the effect that the obligations of the Company under this Agreement also extend to such additional registration statement or registration statements, in all cases, as specified in this Agreement.

"**Rule 144**" means Rule 144 promulgated by the Commission pursuant to the Securities Act, as such Rule may be amended from time to time, or any similar rule or regulation hereafter adopted by the Commission having substantially the same effect as such Rule.

"**Rule 415**" means Rule 415 promulgated by the Commission pursuant to the Securities Act, as such Rule may be amended from time to time, or any similar rule or regulation hereafter adopted by the Commission having substantially the same effect as such Rule.

"**Rule 424**" means Rule 424 promulgated by the Commission pursuant to the Securities Act, as such Rule may be amended from time to time, or any similar rule or regulation hereafter adopted by the Commission having substantially the same effect as such Rule.

"**Securities Act**" has the meaning set forth in the preamble.

"**Selling Holder Questionnaire**" has the meaning set forth in Section 2(d)(i).

"**Selling Securityholders**" has the meaning set forth in Section 3(b).

"**Shares**" means any shares of Common Stock issued or issuable upon conversion of the issued and outstanding Preferred Stock.

"**Subsequent Form S-3**" has the meaning set forth in Section 3(m).

"**Suspension Notice**" has the meaning set forth in Section 2(b).

"**Suspension Period**" has the meaning set forth in Section 2(b).

"**Trading Market**" means whichever of the NYSE American, New York Stock Exchange, the Nasdaq Global Market, the Nasdaq Capital Market, Nasdaq Global Select Market or such other United States registered national securities exchange on which the Common Stock is listed or quoted for trading on the date in question.

"**Underwritten Offering**" shall mean a registration in which securities of the Company are sold to an Underwriter in a firm commitment underwriting for distribution to the public.

"**Venus USA**" has the meaning set forth in the preamble.

2. Registration.

(a) Mandatory Registration.

(i) On or prior to the Filing Deadline, the Company will prepare and file with the Commission a Registration Statement covering the resale of the Registrable Securities for an offering to be made on a continuous basis pursuant to Rule 415. The Registration Statement will be on Form S-3 (except if the Company is not then eligible to register for resale the Registrable Securities on Form S-3, in which case such registration will be on Form S-1, and if for any reason the Company is not then eligible to register for resale the Registrable Securities on Form S-1, then another appropriate form for such purpose) and will contain (except if otherwise required pursuant to written comments received from the Commission upon a review of such Registration Statement) a "Plan of Distribution" section, substantially in the form attached hereto as Annex A, as the same may be amended in accordance with the provisions of this Agreement. The Company will use its reasonable best efforts to cause the Registration Statement to be declared effective under the Securities Act as soon as possible but, in any event, no later than the Effectiveness Deadline, and will use its reasonable best efforts to keep the Registration Statement (or a Subsequent Form S-3) continuously effective under the Securities Act until such date when the Registrable Securities covered by the Registration Statement cease to be Registrable Securities as determined by the counsel to the Company (the "**Effectiveness Period**").

(ii) Notwithstanding the registration obligations set forth in this Section 2(a), if the Commission informs the Company that all of the Registrable Securities cannot, as a result of the application of Rule 415, be registered for resale as a secondary offering on a single registration statement, the Company agrees to promptly inform each of the Holders thereof and use its reasonable best efforts to file amendments to the Initial Registration Statement as required by the Commission, covering the maximum number of Registrable Securities permitted to be registered by the Commission, on Form S-3 (or Form S-1, if Form S-3 is not available) or such other form available to register for resale the Registrable Securities as a secondary offering; provided, however, that prior to filing such amendment, the Company shall be obligated to use its reasonable best efforts to advocate with the Commission for the registration of all of the Registrable Securities in accordance with the Commission Guidance, including without limitation, Compliance and Disclosure Interpretation 612.09.

(iii) Notwithstanding any other provision of this Agreement, if the Commission or any Commission Guidance sets forth a limitation on the number of Registrable Securities permitted to be registered on a particular Registration Statement as a secondary offering (and notwithstanding that the Company used its reasonable best efforts to advocate with the Commission for the registration of all or a greater portion of Registrable Securities), unless otherwise directed in writing by a Holder as to its Registrable Securities, the number of Registrable Securities to be registered on such Registration Statement will be reduced by reducing or eliminating any securities to be included other than Registrable Securities. In the event of a cutback under this Section 2(a)(iii), the Company shall give each Holder at least five (5) Trading Days prior written notice along with the calculations as to such Holder's allotment. In the event the Company amends the Registration Statement in accordance with the foregoing, the Company will use its reasonable best efforts to file with the Commission, as promptly as allowed by Commission or Commission Guidance provided to the Company or to registrants of securities in general, one or more registration statements on Form S-3 (or Form S-1, if Form S-3 is not available) or such other form available to register for resale those Registrable Securities that were not registered for resale on the Initial Registration Statement, as amended.

(b) Suspension Periods. Notwithstanding Section 2(a), the Company may, at any time, delay the filing or delay or suspend the effectiveness of a Registration Statement or, without suspending such effectiveness, deliver a notice (a "**Suspension Notice**") that instructs any selling Holders not to sell any securities included in the Registration Statement or delay the filing of any amendment or supplement pursuant to Section 3, if the board of directors of the Company has determined and promptly notifies the selling Holders in writing that in its reasonable good faith judgment (i) pending corporate development with respect to the Company that the Company believes may be material and that, in the determination of the Company, makes it materially detrimental to the Company to allow continued availability of a Registration Statement or Prospectus or (ii) such registration could reasonably be expected to materially interfere with any material financing, acquisition, corporate reorganization, merger, tender offer or other significant transaction involving the Company (a "**Suspension Period**"), by providing the selling Holders with written notice of such Suspension Period and the reasons therefor. The Company will use its reasonable best efforts to provide such notice at least ten (10) Business Days prior to the commencement of such a Suspension Period; provided, however, that in any event the Company will provide such notice no later than the commencement of such Suspension Period; provided, further, that in no event will a Suspension Period exceed 30 days and in no event shall the total number of days subject to a Suspension Period during any consecutive 12-month period exceed 45 days. Any Suspension Period will not be deemed to end until the Holders have received a notice from the Company stating that such Suspension Period has ended.

(c) Damages. The parties hereto agree that, subject to Section 2(d), the Holders will suffer damages if the Company fails to fulfill its obligations under this Section 2 and that, in such case, it would not be feasible to ascertain the extent of such damages with precision. Accordingly, if:

(i) the Company does not file a Registration Statement by the Filing Deadline;

(ii) a Registration Statement is not declared effective by the Commission on or before the applicable Effectiveness Deadline;

(iii) the Company extends any Suspension Period beyond 45 days during any consecutive 12-month period; or

(iv) a Registration Statement is filed and declared effective but, during the applicable Effectiveness Period, a Registration Statement is not effective for any reason or the Prospectus contained therein is not available for use for any reason, or, other than by reason of a Suspension Period as provided in Section 2(b), will fail to be usable for its intended purpose without such disability being cured within ten (10) Business Days by an effective post-effective amendment to such Registration Statement, a supplement to the Prospectus, a report filed with the Commission pursuant to Section 13(a), 13(c), 14 or 15(d) of the Exchange Act that cures such failure or the effectiveness of a Subsequent Form S-3, and either (x) the Company fails for any reason to satisfy the requirements of Rule 144(c)(1), including, without limitation, the failure to satisfy the current public information requirement under Rule 144(c); or (y) the Company fails to satisfy any condition set forth in Rule 144(i)(2) as a result of which any of the Holders are unable to sell Registrable Securities without restriction under Rule 144 (including, without limitation, volume restrictions) (each such event referred to in foregoing clauses (i) through (iv), a "**Registration Default**"), then in such event as partial relief for the damages to any Holder by reason of any such delay in or reduction of its ability to sell the Registrable Securities and not as a penalty (which remedy will not be exclusive of any other remedies available at law or equity), the Company hereby agrees to make pro rata payments to each Holder, subject to Section 2(d), as liquidated damages and not as a penalty, an additional amount equal to 0.5% of the aggregate amount invested by such Holder and sought to be included on the Registration Statement for each 90-day period (or pro rata for any portion thereof) following the occurrence of any Registration Default and shall be increased by 0.5% during each subsequent 90-day period (or pro rata for any portion thereof), provided that in no event shall the additional amount per 90-day period exceed 2.0% and in no event shall the aggregate additional amount due pursuant to this Section 2(c)(iv) exceed 5.0% of the aggregate amount invested by such Holder and sought to be included on the Registration Statement. Such payments shall constitute the Holder's exclusive monetary remedy for such events, but shall not affect the right of the Holders to seek injunctive relief. The amounts payable as liquidated damages pursuant to this paragraph shall be paid monthly within three (3) Business Days of the last day of each month following the commencement of the payments. Such payments shall be made to each Holder in cash. Interest shall accrue at the rate of 1% per month on any such liquidated damages payments that shall not be paid by the due date until such amount is paid in full. Notwithstanding the foregoing, if the Commission informs the Company that all or any portion of the Registrable Securities cannot, as a result of the application of Rule 415 or applicable Commission Guidance, be registered for resale as a secondary offering on a single registration statement, such notice shall not, in and of itself, constitute or serve as the basis for a Registration Default.

(d) Holders' Agreements. It will be a condition of each Holder's rights under this Agreement, and each Holder agrees, as follows:

(i) Cooperation & Selling Holder Questionnaire. Such Holder will cooperate with the Company by, with reasonable promptness, supplying information and executing documents relating to such selling Holder or the securities of the Company owned by such selling Holder in connection with such registration which are customary for offerings of this type or is required by applicable laws or regulations, including but not limited to furnishing to the Company a completed questionnaire in the form attached to this Agreement as Annex B (a "**Selling Holder Questionnaire**"). The Company will not be required to include the Registrable Securities of a Holder in a Registration Statement and will not be required to pay any damages under Section 2(c) to any Holder who fails to furnish to the Company a fully completed Selling Holder Questionnaire at least five (5) Business Days prior to the applicable Filing Deadline.

(ii) Undertakings. Such selling Holder will enter into any undertakings and take such other action relating to the conduct of the proposed offering which the Company may reasonably request as being necessary to insure compliance with federal and state securities laws and the rules or other requirements of FINRA.

(iii) Shelf Sales. In connection with and as a condition to the Company's obligations with respect to any shelf Registration Statement, each Holder covenants and agrees that it will not offer or sell any such Registrable Securities under the Registration Statement until the Registration Statement has been declared effective by the Commission and such Holder has provided a written notice to the Company of such proposed sale. The Company and the Holders acknowledge and agree that in no way shall this clause limit Holder's ability to sell securities without using the Registration Statement.

(iv) Discontinuance of Sales. Each Holder agrees by its acquisition of such Registrable Securities that, upon receipt of a Suspension Notice or a Discontinuance Notice from the Company, such Holder will forthwith discontinue any offers and sales of such Registrable Securities under the Registration Statement until such Holder's receipt of the copies of the supplemented Prospectus and/or amended Registration Statement or until it is advised in writing (the "**Advice**") by the Company that the use of the applicable Prospectus may be resumed, and, in either case, has received copies of any additional or supplemental filings that are incorporated or deemed to be incorporated by reference in such Prospectus or Registration Statement. The Company and the Holders acknowledge and agree that in no way shall this clause limit Holder's ability to sell securities without using the Registration Statement.

(e) Demand Registration.

(i) Right to Demand Registration. Subject to the other provisions of this Section (2)(e), Holders will have the right, exercisable no more than two times, upon written notice satisfying the requirements of Section (2)(e)(ii) (a "**Demand Registration Notice**") to the Company by the Majority Holders (such notifying Majority Holders, the "**Demanding Notice Holders**"), to require the Company to register, under the Securities Act, an offering (a "**Demand Offering**") of Registrable Securities in accordance with this Section 2(e).

(ii) Contents of Demand Registration Notice. Each Demand Registration Notice sent by any Demanding Notice Holder(s) must include the below information. Each Holder agrees to treat as confidential information, its delivery or receipt of any Demand Registration Notice and the information contained therein, including the related Demand Offering.

(1) the name of, and contact information for, each such Demanding Notice Holder(s) and the number of Registrable Securities held by each such Demanding Notice Holder;

(2) the number of Registrable Securities that are proposed to be sold by each such Demanding Notice Holder; and

(3) the desired structure of the Demand Offering, which may include an Underwritten Offering.

(iii) Participation by Holders Other Than the Demanding Notice Holder(s). If the Company receives a Demand Registration Notice sent by one or more Demanding Notice Holders but not by all Holders, then:

(1) the Company will, within one (1) Business Day, send a copy of such Demand Registration Notice to each Holder other than such Demanding Notice Holders; and

(2) subject to Section 2(e)(vi), the Company will use its commercially reasonable efforts to include, in the related Demand Offering, Registrable Securities of any such Holder that has requested such Registrable Securities to be included in such Demand Offering pursuant to a joinder notice, delivered no later than the first (1st) Business Day after the date on which Company sent a copy of such Demand Registration Notice pursuant to Section (1) above.

(iv) Certain Procedures Relating to Demand Offering.

(1) Obligations and Rights of the Company. Subject to the other terms of this Agreement, upon its receipt of a Demand Registration Notice, the Company will (A) designate a Demand Registration Statement, in accordance with the definition of such term and this Section 2(e), for the Demand Offering; and (B) use its reasonable best efforts to effect such Demand Offering promptly and in accordance with the reasonable requests set forth in such Demand Registration Notice or the reasonable requests of the Holder(s) of a majority of the Registrable Securities included in such Demand Offering (the "**Demand Offering Holders**"), and cooperate in good faith with the Demand Offering Holders in connection therewith. Notwithstanding anything to the contrary in this Agreement, the Company will not be obligated to effect, or take any actions in respect of, any Demand Offering (i) during a Suspension Period or at any time when the securities proposed to be sold pursuant to such Demand Offering are subject to any lock-up agreement (including pursuant to a prior Demand Offering) that has not been waived or released or (ii) after the Company has already effected one (1) Demand Offering pursuant to this Agreement. The Company will be entitled to rely on the authority of the Demand Offering Holders of any Demand Offering to act on behalf of all Holders that have requested any securities to be included in such Demand Offering.

(2) Authority of the Demand Offering Holders. The Demand Offering Holders for any Demand Offering will have the following rights with respect to such Demand Offering, which rights, if exercised, will be deemed to have been exercised on behalf of all Holders that have requested any securities to be included in such Demand Offering:

(A) to determine the structure of the offering, provided such structure is be reasonably acceptable to the Company;

(B) with respect to any Demand Offering that is structured as an Underwritten Offering, to select the managing underwriters, and any other underwriter, subject to the approval of the Company, which will not be unreasonably withheld or delayed;

(C) with respect to any Demand Offering that is structured as an Underwritten Offering, to negotiate any related underwriting agreement, including the amount of securities to be sold by the applicable Holders pursuant thereto and the offering price of, and underwriting discount for, such securities; provided, however, that the Company will have the right to negotiate in good faith all of its representations, warranties and covenants, and indemnification and contribution obligations, set forth in any such underwriting agreement; and

(D) withdraw such Demand Offering by providing notice thereof to the Company.

(v) Conditions Precedent to Inclusion of a Holder's Registrable Securities. Notwithstanding anything to the contrary in this Section 2(e), the right of Holder to include any of its Registrable Securities in a Demand Offering will be subject to the following conditions:

(1) with respect to any Demand Offering that is structured as an Underwritten Offering, the execution and delivery, by such Holder or it is duly authorized representative or power of attorney, of any related underwriting agreement and such other agreements or instruments (including customary "lock-up" agreements, custody agreements and powers of attorney), if any, as may be reasonably requested by the managing underwriters; and

(2) the provision, by such Holder no later than one (1) Business Day immediately after the request therefor, of any information reasonably requested by the Company or, with respect to any Demand Offering that is structured as an Underwritten Offering, the managing underwriters.

(vi) Priority of Securities in Demand Offering Structured as Underwritten Offering. If the total number of securities requested to be included in a Demand Offering structured as an Underwritten Offering pursuant to this Section 2(e) exceeds the Maximum Successful Underwritten Offering Size, then:

(1) the number of securities to be included in such Demand Offering will be reduced to an amount that does not exceed the Maximum Successful Underwritten Offering Size; and

(2) to effect such reduction, if the number of Registrable Securities of Holders and other Persons that have duly requested such Registrable Securities to be included in such Demand Offering in accordance with this Section 2(e) (or in the case of other Persons, pursuant to "piggyback rights" evidenced by another agreement) exceeds such Maximum Successful Underwritten Offering Size, then the number of Registrable Securities to be included in such Demand Offering will be allocated first to the Holders pro rata based on the total number of Registrable Securities so requested by each such Holder to be included in such Demand Offering and, thereafter to such other Persons.

(vii) Rule 415. The provisions of Sections 2(a)(ii)-(iii) shall apply to this Section 2(e), *mutatis mutandis*.

(f) Piggyback Registrations.

(i) Right to Piggyback Registration. Without limiting any obligation of the Company, if (i) there is not an effective Registration Statement covering all of the Registrable Securities, if the Prospectus contained therein is not available for use, and if Rule 144 is not available with respect to the Registrable Securities, and (ii) the Company shall determine to prepare and file with the Commission a registration statement or offering statement relating to an offering for its own account or the account of others under the Securities Act of any of its equity or equity-linked securities (other than on Form S-4 or Form S-8 (each as promulgated under the Securities Act) or their then equivalents relating to equity or equity-linked securities to be issued solely in connection with any acquisition of any entity or business (or a business combination subject to Rule 145 under the Securities Act) or equity or equity-linked securities issuable in connection with the Company's stock option or other employee benefit plans), or a dividend reinvestment or similar plan or rights offering, then the Company shall deliver to each Holder a written notice of such determination and, if within fifteen (15) calendar days after the date of the delivery of such notice, any such Holder shall so request in writing, the Company shall include in such registration statement or offering statement all or any part of such Registrable Securities that such Holder requests to be registered (a "**Piggyback Registration**"). The Company shall, in good faith, cause such Registrable Securities to be included in such Piggyback Registration and shall use its reasonable best efforts to cause the managing underwriter or underwriters of a proposed Underwritten Offering in connection with such Piggyback Registration to permit the Registrable Securities requested by the Holders pursuant to this Section 2(f) to be included in a Piggyback Registration on the same terms and conditions as any similar securities of the Company included in such registration and to permit the sale or other disposition of such Registrable Securities in accordance with the intended method(s) of distribution thereof. All such Holders proposing to distribute their Registrable Securities through an Underwritten Offering under this Section 2(f) shall enter into an underwriting agreement in customary form with the underwriter(s) selected for such Underwritten Offering by the Company. The Company may postpone or withdraw the filing or the effectiveness of a piggyback registration at any time in its sole discretion. The Company shall not grant piggyback registration rights to any holders of its Common Stock or securities that are convertible into its Common Stock that are senior to the rights of the Holders set forth in this Section 2(f).

(ii) Priority of Securities in Underwritten Offerings. Notwithstanding the foregoing, if the total number of securities requested to be included in an Underwritten Offering pursuant to this Section 2(f) exceeds the Maximum Successful Underwritten Offering Size, then: (1) the number of securities to be included in such Underwritten Offering will be reduced to an amount that does not exceed the Maximum Successful Underwritten Offering Size; and (2) to effect such reduction, if the number of Registrable Securities of Holders and other Persons that have duly requested such Registrable Securities to be included in such Underwritten Offering in accordance with this Section 2(f) (or in the case of other Persons, pursuant to "piggyback rights" evidenced by another agreement) exceeds such Maximum Successful Underwritten Offering Size, then the number of Registrable Securities to be included in such Underwritten Offering will be allocated first to such other Persons and thereafter to the Holders pro rata based on the total number of Registrable Securities so requested by each such Holder to be included in such Underwritten Offering.

3. Registration Procedures. In connection with the Company's obligations to effect a registration pursuant to Section 2(a), the Company and, as applicable, the Holders, will do the following:

(a) FINRA Cooperation. The Company and the Holders will cooperate and assist in any filings required to be made with FINRA.

(b) Right to Review Prior Drafts. Not less than ten (10) Business Days prior to the filing of a Registration Statement or any related Prospectus or any amendment or supplement thereto, the Company will furnish to each Holder copies of the "**Selling Securityholders**" and "**Plan of Distribution**" sections of such documents (together with drafts of the Registration Statement or any related Prospectus or any amendment or supplement thereto) in the form in which the Company proposes to file them, which sections and documents will be subject to the review of each such Holder. Each Holder will provide comments, if any, within five (5) Business Days after the date such materials are provided. The Company will not file a Registration Statement, any Prospectus or any amendments or supplements thereto in which the "**Selling Securityholders**" or the "**Plan of Distribution**" sections thereof differ in any material respect from the disclosure received from a Holder in its Selling Holder Questionnaire (as amended or supplemented) or otherwise differ in any material respect from the drafts previously received by such Holder. Each Holder whose Registrable Securities are to be sold pursuant to a Demand Offering in accordance with Section 2(e) will be afforded the same rights set forth in this Section 3(b) with respect to any Registration Statement or Prospectus or any amendment or supplement thereto which names such Holder.

(c) Right to Copies. The Company will furnish to each Holder and the managing underwriters, if any, without charge, (i) at least one (1) conformed copy of each Registration Statement and each amendment thereto and all exhibits to the extent requested by such Holder (excluding those previously furnished or incorporated by reference) promptly after the filing of such documents with the Commission, except if such documents are available on EDGAR; and (ii) as many copies of each Prospectus or Prospectuses (including each form of prospectus) and each amendment or supplement thereto as such Holder may reasonably request. The Company hereby consents to the use of such Prospectus and each amendment or supplement thereto by each of the selling Holders or managing underwriters, as applicable, in connection with the offering and sale of the Registrable Securities covered by such Prospectus and any amendment or supplement thereto.

(d) Notices. The Company will notify each Holder covered by the Registration Statement as promptly as reasonably practicable: (A) when the Prospectus or any prospectus supplement or post-effective amendment has been filed, and with respect to the Registration Statement or any post-effective amendment, when the same has become effective; (B) of any request by the Commission for any amendments or supplements to the Registration Statement or the Prospectus or for additional information; (C) of the issuance by the Commission of any stop order suspending the effectiveness of the Registration Statement or the initiation of any proceedings for that purpose; (D) if, at any time prior to the closing contemplated by the Exchange Agreement, it becomes aware that the representations and warranties of the Company contained in such agreement cease to be true and correct; (E) of the receipt by the Company of any notification with respect to the suspension of the qualification of the Registrable Securities for sale in any jurisdiction or the initiation or threatening of any proceeding for such purpose; (F) of the happening of any event which it believes may make any statement made in the Registration Statement, the Prospectus or any document incorporated therein by reference untrue, or of any material misstatement or omission, and which requires the making of any changes in the Registration Statement, the Prospectus or any document incorporated therein by reference in order to make the statements therein not misleading; (G) upon the occurrence of a Suspension Period (items (C) through and including (G) being a "**Discontinuance Notice**"); and (H) upon the conclusion of a Suspension Period. In addition, during the pendency of any Demand Offering pursuant to Section 2(e), but other than during a Suspension Period, the Company will provide notice to each Holder whose Registrable Securities are to be sold in such offering pursuant to the Registration Statement used in connection with the Demand Offering, which Holders will be afforded the same notice set forth in clauses (A) through (H) of this Section 3(d) relating to such Registration Statement.

(e) Withdrawal of Suspension Orders. The Company will use its reasonable best efforts to respond as promptly as reasonably possible to any comments received from the Commission with respect to any Registration Statement or any amendment thereto and to obtain the withdrawal of any order suspending the effectiveness of the Registration Statement or the suspension of the qualification of the Registrable Securities for sale in any jurisdiction, or to prevent any such suspension.

(f) Supplements & Amendments. Subject to Sections 2(a) and 2(e), if required by applicable federal securities laws, based on the advice of the Company's counsel, the Company will prepare a supplement or post-effective amendment to a Registration Statement, the related Prospectus or any document incorporated therein by reference or file any other required document or, if necessary, renew or refile a Registration Statement prior to its expiration, so that, as thereafter delivered to the purchasers of the Registrable Securities, (A) the Prospectus will not contain an untrue statement of a material fact or omit to state any material fact necessary to make the statements therein not misleading; (B) such Registration Statement remains continuously effective as to the applicable Registrable Securities for its applicable Effectiveness Period; (C) the related Prospectus may be supplemented by any required prospectus supplement, and as so supplemented may be filed pursuant to Rule 424 and (D) the Prospectus will be supplemented, if necessary, to update the disclosure of the number of shares that each Holder intends to sell, reflecting prior resales in accordance with guidance of the staff of the Commission (as such guidance may be substituted for, amended or supplemented by the staff of the Commission after the date of this Agreement). Furthermore, subject to a Holder's compliance with its obligations under Section 2(d)(i), the Company will take such actions as are required to name such Holder as a selling Holder in a Registration Statement or any supplement thereto and to include (to the extent not theretofore included) in such Registration Statement the Registrable Securities identified in such Holder's Selling Holder Questionnaire.

(g) Listing. The Company will use its best efforts to cause all Shares that constitute Registrable Securities covered by the Registration Statement to be listed on each securities exchange on which identical securities issued by the Company are then listed if requested by the Holder thereof and, if not so listed, to be approved for listing on the national securities exchange on which the Company's Common Stock is then listed.

(h) Transfer Agent & Registrar. The Company will provide and cause to be maintained a transfer agent and registrar for all Registrable Securities covered by such Registration Statement from and after a date not later than the Effective Date of such Registration Statement.

(i) Certificates. The Company will cooperate with the Holders to facilitate the timely preparation and delivery of any certificates representing Registrable Securities to be delivered to a transferee pursuant to any Registration Statement, which certificates will be free of all restrictive legends, and to enable such Registrable Securities to be in such denominations and registered in such names as any such Holders may reasonably request.

(j) CUSIPs. The Company, if necessary, will use its reasonable best efforts to provide a CUSIP number for the Registrable Securities, not later than the Effective Date of the Registration Statement.

(k) Legal Counsel. Holders will have the right to select one legal counsel, at the Company's reasonable expense pursuant to Section 4, to review any Registration Statement or Prospectus prepared pursuant to Section 2 or this Section 3, which will be such counsel as designated by the Majority Holders. The Company will reasonably cooperate with such legal counsel's reasonable requests in performing their obligations under this Agreement.

(l) Blue Sky. If at any time the Registrable Securities are not "Covered Securities" within the meaning of Rule 146 of the Securities Act, the Company will, prior to any public offering of Registrable Securities, use its reasonable best efforts to register or qualify or cooperate with the selling Holders, in connection with the registration or qualification (or exemption from such registration or qualification) of such Registrable Securities for offer and sale under the securities or blue sky laws ("**Blue Sky**") of all jurisdictions within the United States that the selling Holders request in writing be covered, to keep each such registration or qualification (or exemption therefrom) effective during the applicable Effectiveness Period and to do any and all other acts or things necessary or advisable to enable the disposition in such jurisdictions of the Registrable Securities covered by any Registration Statement; provided, that the Company will not be required to qualify generally to do business in any jurisdiction where it is not then so qualified or to become subject to any material tax in any such jurisdiction where it is not then so subject.

(m) Subsequent Form S-3. If, at the time of filing of a Registration Statement, the Company is not eligible to use Form S-3 for transactions involving secondary offerings and the Company is not otherwise eligible to incorporate by reference prospectively into such Registration Statement, then at such time as the Company becomes eligible to register transactions involving secondary offerings on Form S-3, the Company may, in its sole discretion, file in accordance with the procedures outlined in this Section 3, including but not limited to all required notices to the Holders, an additional Registration Statement on Form S-3 to cover resales pursuant to Rule 415 of the Registrable Securities (a "**Subsequent Form S-3**"), and, when such Subsequent Form S-3 has been filed with the Commission, the Company may, concurrently with its filing of a request for acceleration of effectiveness of such Subsequent Form S-3, withdraw or terminate the original Registration Statement; provided, however, that nothing in this Section 3(m) will be interpreted to limit the Company's obligations pursuant to Section 2(a).

4. Registration Expenses.

All fees and expenses incident to the performance of or compliance with this Agreement by the Company will be borne by the Company whether or not any Registrable Securities are sold pursuant to a Registration Statement including, without limitation: (i) all registration and filing fees (including, without limitation, fees and expenses (A) with respect to filings required to be made with any Trading Market on which the Common Stock is then listed for trading, (B) related to compliance with applicable state securities or Blue Sky laws and (C) incurred in connection with the preparation or submission of any filing with FINRA); (ii) printing expenses (including, without limitation, expenses of printing certificates for Registrable Securities and of printing Prospectuses); (iii) messenger, telephone and delivery expenses; (iv) fees and disbursements of counsel for the Company and counsel pursuant to Section 3(k); (v) Securities Act liability insurance, if the Company so desires such insurance; (vi) fees and expenses of all other Persons retained by the Company in connection with the consummation of the transactions contemplated by this Agreement and (vii) all of the Company's own internal expenses incurred in connection with the consummation of the transactions contemplated by this Agreement (including, without limitation, all salaries and expenses of its officers and employees performing legal or accounting duties), the expense of any annual audit and the fees and expenses incurred in connection with the listing of the Registrable Securities on any securities exchange as required hereunder; provided, however, that each selling Holder will pay (i) all underwriting discounts, commissions, fees and expenses and all transfer taxes with respect to the Registrable Securities sold by such selling Holder; (ii) any fees and expenses of legal counsel other than the counsel selected pursuant to Section 3(k) and (iii) all other expenses incurred by such selling Holder and incidental to the sale and delivery of the shares to be sold by such Holder.

5. Indemnification.

(a) Indemnification by the Company. The Company will, notwithstanding any termination of this Agreement, indemnify and hold harmless each Holder, the officers, directors, partners, members and shareholders of each Holder and each Person who controls any Holder (within the meaning of Section 15 of the Securities Act or Section 20 of the Exchange Act) and the directors and officers of any such controlling Persons, to the fullest extent permitted by applicable law, from and against any and all losses, claims, damages, liabilities, costs (including, without limitation, reasonable costs of preparation and reasonable attorneys' fees) and expenses (collectively, "**Losses**"), as incurred, arising out of or based upon, in the case of the Registration Statement or in any amendments thereto, any untrue or alleged untrue statement of a material fact contained therein or any omission or alleged omission to state therein a material fact required to be stated therein to make the statements not misleading, or in the case of any Prospectus or form of prospectus, or in any amendment or supplement thereto, or in any preliminary prospectus, any untrue or alleged untrue statement of a material fact contained therein or any omission or alleged omission to state therein a material fact required to be stated therein or necessary to make the statements therein, in light of the circumstances under which they were made, not misleading, except to the extent, but only to the extent, that such untrue statements or omissions (1) are made in reliance upon and in conformity with written information furnished to the Company by or on behalf of any Holder expressly for use in a Registration Statement, or to the extent that such information relates to such Holder or such Holder's proposed method of distribution of Registrable Securities and was reviewed and approved in writing by such Holder for use in the Registration Statement, such Prospectus or such form of Prospectus (it being understood and agreed that the only such information furnished to the Company by or on behalf of any Holder consists of the information described in Annex A hereto, as may be amended in accordance with the provisions of this Agreement, for this purpose) or (2) resulted from the use by any Holder of an outdated or defective Prospectus after the Company has notified such Holder in writing that such Prospectus is outdated or defective and prior to the receipt by such Holder of an Advice or an amended or supplemented Prospectus, but only if and to the extent that following the receipt of the Advice or the amended or supplemented Prospectus the misstatement or omission giving rise to such Loss would have been corrected.

(b) Indemnification by Holders. Each Holder will, severally and not jointly, indemnify and hold harmless the Company, its directors, officers, partners, members and shareholders and each Person who controls the Company (within the meaning of Section 15 of the Securities Act or Section 20 of the Exchange Act) and the directors and officers of such controlling Person, in each case to the fullest extent permitted by applicable law from and against all Losses, as incurred, arising solely out of or based upon, in the case of the Registration Statement or in any amendments thereto, any untrue or alleged untrue statement of a material fact contained therein or any omission or alleged omission to state therein a material fact required to be stated therein to make the statements not misleading, or in the case of any Prospectus or form of prospectus, or in any amendment or supplement thereto, or in any preliminary prospectus, any untrue or alleged untrue statement of a material fact contained therein or any omission or alleged omission to state therein a material fact required to be stated therein or necessary to make the statements therein, in light of the circumstances under which they were made, not misleading to the extent, but only to the extent, that such untrue statements or omissions (1) are made in reliance upon and in conformity with written information furnished to the Company by or on behalf of any Holder expressly for use in a Registration Statement or Prospectus, or to the extent that such information relates to such Holder or such Holder's proposed method of distribution of Registrable Securities and was reviewed and approved in writing by such Holder for use in the Registration Statement or Prospectus (it being understood and agreed that the only such information furnished to the Company by or on behalf of any Holder consists of the information described in Annex A hereto, as may be amended in accordance with the provisions of this Agreement, for this purpose) or (2) resulted from the use by such Holder of an outdated or defective Prospectus after the Company has notified such Holder in writing that the Prospectus is outdated or defective and prior to the receipt by such Holder of an Advice or an amended or supplemented Prospectus, but only if and to the extent that following the receipt of the Advice or the amended or supplemented Prospectus the misstatement or omission giving rise to such Loss would have been corrected; provided, however, that the obligation to indemnify will be several and not joint and in no event will the liability of any selling Holder hereunder be greater in amount than the dollar amount of the net proceeds received by any such selling Holder upon the sale of the Registrable Securities under the Registration Statement giving rise to such indemnification obligation.

(c) Conduct of Indemnification Proceedings. In order for a Person (the "**Indemnified Party**") to be entitled to any indemnification provided for under this Agreement in respect of, arising out of or involving a claim or demand made by any Person against the Indemnified Party (a "**Claim**"), such Indemnified Party must notify the indemnifying party ("**Indemnifying Party**") in writing, and in reasonable detail, of the Claim as promptly as reasonably possible after receipt by such Indemnified Party of notice of the Claim; provided, however, that failure to give such notification on a timely basis shall not affect the indemnification provided hereunder except to the extent the Indemnifying Party shall have been actually materially prejudiced as a result of such failure. Thereafter, the Indemnified Party shall deliver to the Indemnifying Party, promptly after the Indemnified Party's receipt thereof, copies of all notices and documents (including court filings and related papers) received by the Indemnified Party relating to the Claim.

If a Claim is made against an Indemnified Party, the Indemnifying Party shall be entitled to participate in the defense thereof and, if it so chooses and acknowledges its obligation in writing to indemnify the Indemnified Party therefor, to assume at its cost the defense thereof with counsel selected by the Indemnifying Party and reasonably satisfactory to the Indemnified Party and to settle such suit, action, claim or proceeding in its discretion with an unconditional full release of the Indemnified Party and no admission of fault, liability, culpability or a failure to act by or on behalf of the Indemnified Party. Notwithstanding any acknowledgment made pursuant to the immediately preceding sentence, the Indemnifying Party shall continue to be entitled to assert any limitation to the amount of Losses for which the Indemnifying Party is responsible pursuant to its indemnification obligations. Should the Indemnifying Party so elect to assume the defense of a Claim, the Indemnifying Party shall not be liable to the Indemnified Party for legal expenses subsequently incurred by the Indemnified Party in connection with the defense thereof unless (i) the Indemnifying Party has materially failed to defend, contest or otherwise protest in a timely manner against Claims or (ii) such Indemnified Party reasonably objects to such assumption on the grounds that there are defenses available to it which are different from or in addition to the defenses available to such Indemnifying Party and, as a result, a conflict of interest exists. Subject to the limitations in the preceding sentence, if the Indemnifying Party assumes such defense, the Indemnified Party shall have the right to participate in the defense thereof and to employ counsel, at its own expense, separate from the counsel employed by the Indemnifying Party, it being understood, however, that the Indemnifying Party shall control such defense. The Indemnifying Party shall be liable for the fees and expenses of counsel employed by the Indemnified Party for any period during which the Indemnifying Party has not assumed the defense thereof. If the Indemnifying Party chooses to defend any Claim, all the parties hereto shall cooperate in the defense or prosecution of such Claim. Such cooperation shall include the retention and (upon the Indemnifying Party's request) the provision to the Indemnifying Party of records and information which are reasonably relevant to such Claim, and making employees available on a mutually convenient basis to provide additional information and explanation of any material provided hereunder. Whether or not the Indemnifying Party shall have assumed the defense of a Claim, the Indemnified Party shall not admit any liability with respect to, or settle, compromise or discharge, such Claim without the Indemnifying Party's prior written consent (which consent shall not be unreasonably withheld).

The obligations of the Company and the Holders under this Section 5 shall survive completion of any offering of Registrable Securities pursuant to a Registration Statement and the termination of this Agreement. The Indemnifying Party's liability to any such Indemnified Party hereunder shall not be extinguished solely because any other Indemnified Party is not entitled to indemnity hereunder.

(d) Contribution. If a claim for indemnification under Section 5(a) or 5(b) is unavailable to an Indemnified Party (by reason of public policy or otherwise), then each Indemnifying Party, in lieu of indemnifying such Indemnified Party, will contribute to the amount paid or payable by such Indemnified Party as a result of such Losses, in such proportion as is appropriate to reflect the relative fault of the Indemnifying Party and Indemnified Party in connection with the actions, statements or omissions that resulted in such Losses as well as any other relevant equitable considerations. The relative fault of such Indemnifying Party and Indemnified Party will be determined by reference to, among other things, whether any action in question, including any untrue or alleged untrue statement of a material fact or omission or alleged omission of a material fact, has been taken or made by, or relates to information supplied by, such Indemnifying Party or Indemnified Party, and the parties' relative intent, knowledge, access to information and opportunity to correct or prevent such action, statement or omission. The amount paid or payable by a party as a result of any Losses will be deemed to include, subject to the limitations set forth in Section 5(c), any reasonable attorneys' or other reasonable fees or expenses incurred by such party in connection with any Proceeding to the extent such party would have been indemnified for such fees or expenses if the indemnification provided for in Section 5(a) or 5(b) was available to such party in accordance with its terms. The parties hereto agree that it would not be just and equitable if contribution pursuant to this Section 5 were determined by pro rata allocation or by any other method of allocation that does not take into account the equitable considerations referred to in this Section 5. Notwithstanding the provisions of this Section 5, no Holder will be required to contribute, in the aggregate, any amount in excess of the amount by which the proceeds actually received by such Holder from the sale of the Registrable Securities subject to the Proceeding exceeds the amount of any damages that such Holder has otherwise been required to pay by reason of such untrue or alleged untrue statement or omission or alleged omission. No Person guilty of fraudulent misrepresentation (within the meaning of Section 11(f) of the Securities Act) shall be entitled to contribution from any Person who was not guilty of such fraudulent misrepresentation.

(e) **Other**. The indemnity and contribution agreements contained in this Section 5 are in addition to any liability that the Indemnifying Parties may have to the Indemnified Parties.

6. Miscellaneous.

(a) **Notices**. All notices or other communications hereunder will be in writing and will be given by (i) personal delivery, (ii) courier or other delivery service which obtains a receipt evidencing delivery, (iii) registered or certified mail (postage prepaid and return receipt requested) or (iv) facsimile or similar electronic device, to such address as may be designated from time to time by the relevant party, and which will initially be:

(i) in the case of the Company:

Venus Concept Inc.
235 Yorkland Blvd., Suite 900
Toronto, Ontario, Canada
M2J 4Y8
Attn: General Counsel and Corporate Secretary
Email: [redacted]

With a copy to:

Dorsey & Whitney LLP
TD Canada Trust Tower
Brookfield Place 161 Bay Street, Suite 4310
Toronto, ON M5J 2S1
Attn: Richard Raymer
Email: [redacted]

(ii) in the case of each Lender, to the address described on their respective signature page to the Exchange Agreement.

Notices to Holders shall be provided to the address specified on such Holder's Selling Holder Questionnaire. All notices and other communications will be deemed to have been given (i) if delivered by the United States mail, three (3) Business Days after mailing (five (5) Business Days if delivered to an address outside of the United States), (ii) if delivered by a courier or other delivery service, one (1) Business Day after dispatch (two (2) Business Days if delivered to an address outside of the United States) and (iii) if personally delivered or sent by facsimile or similar electronic device, upon receipt by the recipient or its agent or employee (which, in the case of a notice sent by facsimile or similar electronic device, will be the time and date indicated on the transmission confirmation receipt). No objection may be made by a party to the manner of delivery of any notice actually received in writing by an authorized agent of such party.

(b) Governing Law; Jurisdiction; Jury Trial; Etc.. This Agreement shall be governed by, and construed in accordance with, the internal laws of the State of New York. Each party hereby irrevocably submits to the exclusive jurisdiction of the state and federal courts sitting in The City of New York, Borough of Manhattan, for the adjudication of any dispute hereunder or in connection herewith or with any transaction contemplated hereby or discussed herein, and hereby irrevocably waives, and agrees not to assert in any suit, action or proceeding, any claim that it is not personally subject to the jurisdiction of any such court, that such suit, action or proceeding is brought in an inconvenient forum or that the venue of such suit, action or proceeding is improper. Each party hereby irrevocably waives personal service of process and consents to process being served in any such suit, action or proceeding by mailing a copy thereof to such party at the address for such notices to it under this Agreement and agrees that such service will constitute good and sufficient service of process and notice thereof. Nothing contained herein will be deemed to limit in any way any right to serve process in any manner permitted by law. Each party hereby irrevocably waives any right it may have, and agrees not to request, a jury trial for the adjudication of any dispute hereunder or in connection with or arising out of this Agreement or any transaction contemplated hereby.

(c) Remedies. In the event of a breach by the Company of its obligations under this Agreement, each Holder, in addition to being entitled to exercise all rights granted by law, including recovery of damages, will be entitled to specific performance of its rights under this Agreement. The Company agrees that monetary damages would not be adequate compensation for any loss incurred by reason of a breach by it of any of the provisions of this Agreement and hereby waives the defense in any action for specific performance that a remedy at law would be adequate.

(d) Entire Agreement; Amendments. This Agreement and any documents referred to herein or executed contemporaneously herewith constitute the parties' entire agreement with respect to the subject matter hereof and supersede all agreements, representations, warranties, statements, promises and understandings, whether oral or written, with respect to the subject matter hereof. This Agreement may be amended, altered or modified only by a writing signed by the Company and the Majority Holders.

(e) Additional Documents. Each party hereto agrees to execute any and all further documents and writings and to perform such other actions which may be or become necessary or expedient to effectuate and carry out this Agreement.

(f) Third-Party Beneficiaries. None of the provisions of this Agreement will be for the benefit of, or enforceable by, any third-party beneficiary, except with respect to the Holders.

(g) Successors and Assigns. Except as provided herein to the contrary, this Agreement will be binding upon and inure to the benefit of the parties hereto, their respective successors and permitted assigns.

(h) Waivers Strictly Construed. With regard to any power, remedy or right provided herein or otherwise available to any party hereunder (a) no waiver or extension of time will be effective unless expressly contained in a writing signed by the waiving party and (b) no alteration, modification or impairment will be implied by reason of any previous waiver, extension of time, delay or omission in exercise, or other indulgence.

(i) Severability. The validity, legality or enforceability of the remainder of this Agreement will not be affected even if one or more of the provisions of this Agreement will be held to be invalid, illegal or unenforceable in any respect.

(j) Attorneys' Fees. Should any litigation be commenced (including any proceedings in a bankruptcy court) between the parties hereto or their representatives concerning any provision of this Agreement or the rights and duties of any Person hereunder, the party or parties prevailing in such proceeding will be entitled, in addition to such other relief as may be granted, to the attorneys' fees and court costs incurred by reason of such litigation.

(k) Headings. The Section headings in this Agreement are inserted only as a matter of convenience, and in no way define, limit, extend or interpret the scope of this Agreement or of any particular Section.

(l) Counterparts. This Agreement may be executed simultaneously in two or more counterparts, each of which will be deemed an original, but all of which together will constitute one and the same instrument.

[Remainder of Page Intentionally Left Blank, Signature Pages to Follow]

IN WITNESS WHEREOF, the parties have executed this Resale Registration Rights Agreement as of the date first written above.

VENUS CONCEPT INC.

By: */s/ Rajiv De Silva*
Name: Rajiv De Silva
Title: Chief Executive Officer

IN WITNESS WHEREOF, the parties have executed this Resale Registration Rights Agreement as of the date first written above.

LENDERS:

MADRYN HEALTH PARTNERS, LP

By: MADRYN HEALTH ADVISORS, LP,
its General Partner

By: MADRYN HEALTH ADVISORS GP, LLC,
its General Partner

By: */s/ Avinash Amin*
Name: Avinash Amin
Title: Member

MADRYN HEALTH PARTNERS (CAYMAN MASTER), LP

By: MADRYN HEALTH ADVISORS, LP,
its General Partner

By: MADRYN HEALTH ADVISORS GP, LLC,
its General Partner

By: */s/ Avinash Amin*
Name: Avinash Amin
Title: Member

PLAN OF DISTRIBUTION

We are registering the Securities covered by this prospectus on behalf of the Selling Securityholders. All costs, expenses and fees connected with the registration of these Securities will be borne by us. Any brokerage commissions and similar expenses connected with selling the Securities will be borne by the Selling Securityholders. The Selling Securityholders may offer and sell the Securities covered by this prospectus from time to time in one or more transactions. The term "**Selling Securityholders**" includes pledgees, donees, transferees and other successors-in-interest who may acquire Securities through a pledge, gift, partnership distribution or other non-sale related transfer from the Selling Securityholders. The Selling Securityholders will act independently of the Company in making decisions with respect to the timing, manner and size of each sale. These transactions include:

- in "at the market offerings" within the meaning of Rule 415(a)(4) under the Securities Act, to or through a market maker or into an existing trading market, on an exchange or otherwise;
- directly to a limited number of purchasers or to a single purchaser;
- through agents;
- by delayed delivery contracts or by remarketing firms;
- ordinary brokerage transactions and transactions in which the broker solicits purchasers;
- purchases by a broker-dealer as principal and resale by the broker-dealer for its own account pursuant to this prospectus;
- exchange or over-the-counter distributions in accordance with the rules of the exchange or other market;
- block trades in which the broker-dealer attempts to sell the Securities as agent but may position and resell a portion of the block as principal to facilitate the transaction, or in crosses, in which the same broker acts as agent on both sides of the trade;
- transactions in options, swaps or other derivatives that may or may not be listed on an exchange;
- through distributions by a Selling Securityholder or its successors in interest to its members, general or limited partners or shareholders (or their respective members, general or limited partners or shareholders);
- a combination of any such method of sale; or
- any other method permitted pursuant to applicable law.

In connection with distributions of the Securities or otherwise, the Selling Securityholders may:

- sell the Securities:
  - in negotiated transactions;
  - in one or more transactions at a fixed price or prices, which may be changed from time to time;
  - at market prices prevailing at the times of sale;
  - at prices related to such prevailing market prices; or
  - at negotiated prices;

- sell the Securities:
  - on a national securities exchange;
  - in the over-the-counter market; or
  - in transactions otherwise than on an exchange or in the over-the-counter market, or in combination;
- enter into option or other transactions with broker-dealers or other financial institutions which require the delivery to them of Securities covered by this prospectus, which they may in turn resell; and
- pledge Securities to broker-dealers or other financial institutions, which, upon a default, they may in turn resell.

The Selling Securityholders may also resell all or a portion of the Securities in open market transactions in reliance upon Rule 144 under the Securities Act of 1933, as amended, or the Securities Act, as permitted by that rule, Section 4(a)(1) under the Securities Act, if available, or any other exemption from the registration requirements that become available, rather than under this prospectus.

If underwriters are used in the sale of any Securities, such Securities will be acquired by the underwriters for their own account and may be resold from time to time in one or more transactions described above. Securities may be either offered to the public through underwriting syndicates represented by managing underwriters or directly by underwriters. We may use underwriters with whom we have a material relationship. As applicable, we will describe in each accompanying prospectus supplement the name of the underwriter(s) and the nature of any such relationship(s).

In connection with sales of Securities, the Selling Securityholders may enter into hedging transactions with broker-dealers or other financial institutions, which may in turn engage in short sales of Securities in the course of hedging in positions they assume. The Selling Securityholders may also sell Securities short and the Selling Securityholders may deliver Securities covered by this prospectus to close out short positions and to return borrowed Securities in connection with such short sales. The Selling Securityholders may also loan or pledge Securities to broker-dealers that in turn may sell such Securities, to the extent permitted by applicable law. The Selling Securityholders may also enter into option or other transactions with broker-dealers or other financial institutions or the creation of one or more derivative securities which require the delivery to such broker-dealer or other financial institution of Securities offered by this prospectus, which Securities such broker-dealer or other financial institution may resell pursuant to this prospectus (as supplemented or amended to reflect such transaction).

The Selling Securityholders may, from time to time, pledge or grant a security interest in some or all of the Securities owned by them and, if they default in the performance of their secured obligations, the pledgees or secured parties may offer and sell the Securities from time to time pursuant to this prospectus or any amendment to this prospectus under Rule 424(b)(3) or other applicable provision of the Securities Act, amending, if necessary, the list of Selling Securityholders to include the pledgee, transferee or other successors in interest as Selling Securityholders under this prospectus. The Selling Securityholders may also may transfer and donate Securities in other circumstances in which case the transferees, donees, pledgees or other successors in interest will be the selling beneficial owners for purposes of this prospectus.

A Selling Securityholder that is an entity may elect to make an in-kind distribution of Securities to its members, general or limited partners or shareholders pursuant to the registration statement of which this prospectus is a part by delivering a prospectus. To the extent that such members, general or limited partners or shareholders are not affiliates of ours, such members, partners or shareholders would thereby receive freely tradable Securities pursuant to the distribution through a registration statement. Additionally, to the extent that entities, members, partners or shareholders are affiliates of ours received shares in any such distribution, such affiliates will also be Selling Securityholders and will be entitled to sell Securities pursuant to this prospectus.

In effecting sales, the Selling Securityholders may engage broker-dealers or agents, who may in turn arrange for other broker-dealers to participate. Broker-dealers or agents may receive commissions, discounts or concessions from the Selling Securityholders and/or from the purchasers of Securities for whom the broker-dealers may act as agents or to whom they sell as principal, or both. The compensation to a particular broker-dealer may be in excess of customary commissions. To our knowledge, there is currently no plan, arrangement or understanding between any Selling Securityholders and any broker-dealer or agent regarding the sale of any Securities by the Selling Securityholders.

The Selling Securityholders, any broker-dealers or agents and any participating broker-dealers that act in connection with the sale of the Securities covered by this prospectus may be "underwriters" under the Securities Act with respect to those Securities and will be subject to the prospectus delivery requirements of that Act. Any profit that the Selling Securityholders realize, and any compensation that any broker-dealer or agent may receive in connection with any sale, including any profit realized on resale of Securities acquired as principal, may constitute underwriting discounts and commissions. If the Selling Securityholders are deemed to be underwriters, the Selling Securityholders may be subject to certain liabilities under statutes including, but not limited to, Section 11, 12 and 17 of the Securities Act and Section 10(b) and Rule 10b-5 under the Exchange Act.

The securities laws of some states may require the Selling Securityholders to sell the Securities in those states only through registered or licensed brokers or dealers. These laws may also require that we register or qualify the Securities for sale in those states unless an exemption from registration and qualification is available and the Selling Securityholders and we comply with that exemption. In addition, the anti-manipulation rules of Regulation M under the Securities Exchange Act of 1934 may apply to sales of Securities in the market and to the activities of the Selling Securityholders and their affiliates. Regulation M may restrict the ability of any person engaged in the distribution of the Securities to engage in market-making activities with respect to the Securities. All of the foregoing may affect the marketability of the Securities and the ability of any person to engage in market-making activities with respect to the Securities.

If any Selling Securityholder notifies us that he has entered into any material arrangement with a broker-dealer for the sale of Securities through a block trade, special offering, exchange distribution, over-the-counter distribution or secondary distribution, or a purchase by a broker or dealer, we will file any necessary supplement to this prospectus to disclose:

- the number of Securities involved in the arrangement;
- the terms of the arrangement, including the names of any underwriters, dealers or agents who purchase Securities, as required;
- the proposed selling price to the public;
- any discount, commission or other underwriting compensation;
- the place and time of delivery for the Securities being sold;
- any discount, commission or concession allowed, reallowed or paid to any dealers; and
- any other material terms of the distribution of Securities.

In addition, if the Selling Securityholder notifies us that a donee, pledgee, transferee or other successor-in-interest of the Selling Securityholder intends to sell any securities, we will file an amendment to the registration statement of which this prospectus forms a part of or a supplement to this prospectus, if required.

VENUS CONCEPT INC.

SELLING SECURITYHOLDER NOTICE AND QUESTIONNAIRE

The undersigned beneficial owner of common stock, $0.0001 par value per share (the "**Common Stock**") and/or securities, of Venus Concept Inc. (the "**Company**") understands that the Company has filed or intends to file with the Securities and Exchange Commission (the "**Commission**") a Registration Statement for the registration and resale of the Registrable Securities, in accordance with the terms of the Registration Rights Agreement, dated as of October 4, 2023 (the "**Registration Rights Agreement**"), among the Company and the Lenders (as defined therein). A copy of the Registration Rights Agreement is available from the Company upon request at the address set forth below. All capitalized terms used and not otherwise defined herein will have the meanings ascribed thereto in the Registration Rights Agreement.

The undersigned hereby provides the following information to the Company and represents and warrants that such information is accurate:

1. Name.

(a) Full Legal Name of Selling Securityholder

_____

(b) Full Legal Name of Registered Holder (if not the same as (a) above) through which Registrable Securities Listed in Item 3 below are held:

_____

(c) Full Legal Name of Natural Control Person (which means a natural person who directly or indirectly alone or with others has power to vote or dispose of the securities covered by the questionnaire):

_____

2. Address for Notices to Selling Securityholder:

Name: _____

Address: _____

_____

Telephone: _____

Fax: _____

Contact Person: _____

3. Beneficial Ownership of Registrable Securities:

(a) Type and Amount of Registrable Securities Beneficially Owned:

_____

4. Broker-Dealer Status:

(a) Are you a broker-dealer?

Yes ☐ No ☐

Note: If yes, the Commission's staff has indicated that you should be identified as an underwriter in the Registration Statement.

(b) Are you an affiliate of a broker-dealer?

Yes ☐ No ☐

(c) If you are an affiliate of a broker-dealer, do you certify that you bought the Registrable Securities in the ordinary course of business, and at the time of the purchase of the Registrable Securities to be resold, you had no agreements or understandings, directly or indirectly, with any person to distribute the Registrable Securities?

Yes ☐ No ☐

Note: If no, the Commission's staff has indicated that you should be identified as an underwriter in the Registration Statement.

5. Beneficial Ownership of Other Securities of the Company Owned by the Selling Securityholder.

Except as set forth below in this Item 5, the undersigned is not the beneficial or registered owner of any securities of the Company other than the Registrable Securities listed above in Item 3.

Type and Amount of Other Securities Beneficially Owned by the Selling Securityholder:

_____

_____

_____

6. Relationships with the Company:

Except as set forth below, neither the undersigned nor any of its affiliates, officers, directors or principal equity holders (owners of 5% of more of the equity securities of the undersigned) has held any position or office or has had any other material relationship with the Company (or its predecessors or affiliates) during the past three years.

State any exceptions here: _____

_____

_____

The undersigned agrees to promptly notify the Company of any inaccuracies or changes in the information provided herein that may occur subsequent to the date hereof and prior to the Effective Date for the Registration Statement.

By signing below, the undersigned consents to the disclosure of the information contained herein in its answers to Items 1 through 6 and the inclusion of such information in the Registration Statement and the related prospectus. The undersigned understands that such information will be relied upon by the Company in connection with the preparation or amendment of the Registration Statement and the related prospectus.

IN WITNESS WHEREOF the undersigned, by authority duly given, has caused this Notice and Questionnaire to be executed and delivered either in person or by its duly authorized agent.

Dated:

Beneficial Owner:

_____

By: _____

Name: _____

Title: _____

PLEASE FAX A COPY OF THE COMPLETED AND EXECUTED NOTICE AND QUESTIONNAIRE, AND RETURN THE ORIGINAL BY OVERNIGHT MAIL, TO:

Venus Concept Inc.
ATTN: Michael Mandarello, General Counsel and Corporate Secretary
235 Yorkland Blvd., Suite 900
Toronto, ON M2J 4Y8

Exhibit 10.4

Execution Version

LOAN AMENDMENT AND CONSENT AGREEMENT

THIS LOAN AMENDMENT CONSENT AGREEMENT (the "Agreement") dated as of May 24, 2024 (the "Effective Date") is entered into among (a) VENUS CONCEPT USA INC., a Delaware corporation (the "Borrower"), (b) VENUS CONCEPT INC., a Delaware corporation (the "Venus Concept"), (c) VENUS CONCEPT CANADA CORP., a corporation incorporated under the laws of the Province of Ontario (the "Venus Canada"), (d) VENUS CONCEPT LTD., a company formed under the Companies Law of Israel "Venus Israel" and, together with Venus Concept and Venus Canada, the "Guarantors"; the Borrower and the Guarantors shall be referred to herein, collectively, as the "Loan Parties"), and (e) each of (i) MADRYN HEALTH PARTNERS, LP, a Delaware limited partnership ("Madryn Health") and (ii) MADRYN HEALTH PARTNERS (CAYMAN MASTER), LP, a Cayman Islands limited partnership ("Madryn Cayman" and, together with Madryn Health, the "Lenders"; together the Lender and the Loan Parties are hereinafter referred to as the "Parties"). Capitalized terms used but not otherwise defined herein shall have the meanings given to them in the Loan Agreement (as defined below).

RECITALS

WHEREAS, CITY NATIONAL BANK OF FLORIDA ("CNB") and the Borrower were parties to that certain Loan and Security Agreement (Main Street Priority Loan), dated as of December 8, 2020 (as amended, restated, supplemented, waived or otherwise modified from time to time, the "Loan Agreement"), between CNB, as lender, and Borrower, pursuant to which CNB provided Borrower a term loan in the principal amount of Fifty Million Dollars ($50,000,000.00) (the "Loan") issued pursuant to the Main Street Priority Loan Facility, all upon certain terms and conditions set forth in the Loan Agreement and in the other Loan Documents (as defined in the Loan Agreement);

WHEREAS, to evidence Borrower's repayment obligations under the Loan Agreement, Borrower executed a Promissory Note in favor of CNB dated December 8, 2020 (as amended, amended and restated, supplemented, waived, exchanged or otherwise modified from time to time, the "Note"), in the original principal amount of $50,000,000.00;

WHEREAS, in connection with the Loan, the Venus Concept and Venus Canada have previously issued a Guaranty of Payment and Performance, originally dated as of December 8, 2020, in favor of the Lender (as amended, restated, amended and restated, supplemented or otherwise modified from time to time prior to the date hereof, the "Original Main Street Guaranty"; the Original Main Street Guaranty, as amended by this Agreement, the "Main Street Guaranty");

WHEREAS, pursuant to that certain Main Street Loan – Venus Concept – Sale and Assignment Agreement, dated as of April 23, 2024, between CNB and the Lenders, CNB assigned, transferred, and conveyed all of its rights, title, and interest in and to the Loan, Note, the Loan Agreement, the Main Street Guaranty, all other Loan Documents and any related documents to the Lenders;

WHEREAS, the Borrower has requested that the Loan Agreement be amended to provide for certain modifications thereto;

WHEREAS, the Borrower was required to pay to the Lenders accrued interest on the Note on May 8, 2024 (such interest, the "May 2024 Interest") and will be required to pay to the Lenders accrued interest on the Note on June 8, 2024 (such interest, the "June 2024 Interest");

WHEREAS, the Borrower has requested that in lieu of paying the May 2024 Interest and June 2024 Interest in cash, the Lenders consent to the payment by the Borrower of (a) the May 2024 Interest by adding such interest to the outstanding principal amount of the Loan effective as of May 8, 2024 and (b) the June 2024 Interest by adding such interest to the outstanding principal amount of the Loan effective as of June 8, 2024 (such payments collectively, the "May and June 2024 PIK Interest Payments");

WHEREAS, the Borrower has requested relief from the obligation to comply with the requirements of Section 7(a) of the Loan Agreement ("Liquidity") in respect of the Borrower's minimum liquidity amounts ("Requested Minimum Liquidity Consent");

WHEREAS, the Lenders are willing to consent to the May and June 2024 PIK Interest Payments and the Requested Minimum Liquidity Consent, subject to the terms and conditions hereof, and amend the Loan Agreement; and

WHEREAS, this Agreement is entered into in connection with that certain Exchange Agreement, dated as of the Effective Date, between the Borrower, Venus Concept and the Lenders;

NOW, THEREFORE, in consideration of the premises and the mutual covenants contained herein, and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties hereto agree as follows:

1. Consents.

(a) May and June 2024 PIK Interest Payments Consent.

(i) Subject to the other terms and conditions of this Agreement, the Lenders hereby consent to the May and June 2024 PIK Interest Payments. The above consent shall not otherwise modify or affect the Borrower and the other Loan Parties' obligations to comply fully any other duty, term, condition or covenant contained in the Loan Agreement, the Note, or any other Loan Document in the future and is limited solely to the matters set forth in this Section 1(a). Nothing contained in this Agreement shall be deemed to constitute a waiver of any duty, term, condition or covenant contained in the Loan Agreement, the Note or any other Loan Document in the future, or any other rights or remedies any Lender may have under the Loan Agreement, the Note or any other Loan Documents or under applicable law.

(ii) The Borrower and the Lenders acknowledge and agree that in lieu of making cash payment of (a) the May 2024 Interest, the Borrower has paid such interest to the Lenders of May 8, 2024 by adding such interest to the outstanding principal amount of the Loan on such date and (b) the June 2024 Interest, the Borrower will pay such interest to the Lenders on June 8, 2024 by adding such interest to the outstanding principal amount of the Loan on such date. Any and all such paid-in-kind interest so added to the principal amount of the Loan shall constitute and increase the principal amount of the Loans for all purposes under this Agreement and shall bear interest in accordance with the provisions of the Loan Agreement and Note.

(b) Requested Minimum Liquidity Consent. The Lenders, as of the date hereof, hereby approve the Requested Minimum Liquidity Consent and agree that until June 7, 2024, the failure of any of the Loan Parties to comply with the obligations of Sections 7(a) of the Loan Agreement shall not constitute an Event of Default under the Loan Agreement or the Note. The above consent shall not otherwise modify or affect the Borrower's and the other Loan Parties' obligations to comply fully with the terms of the Loan Agreement, the Note or any other Loan Document in the future and is limited solely to the matters set forth in this Section 1(b). Nothing contained in this Agreement shall be deemed to constitute a waiver of any duty, term, condition or covenant contained in the Loan Agreement, the Note or any other Loan Document in the future, or any other rights or remedies any Lender may have under the Loan Agreement, the Note or any other Loan Documents or under applicable law.

2. Amendments to Loan Agreement. The Loan Agreement is hereby amended by deleting the stricken text (indicated textually in the same manner as the following example: ~~stricken text~~) and by adding the double-underlined text (indicated textually in the same manner as the following example: double-underlined text) as reflected in the modifications set forth in Annex A.

3. Joinder. As of the Effective Date, Venus Israel hereby irrevocably, absolutely and unconditionally becomes a party to the Main Street Guaranty as a Guarantor and agrees to be bound by all the terms, conditions, obligations, liabilities and undertakings of each Guarantor or to which each Guarantor is subject thereto, including without limitation, the joint and several, unconditional, absolute, continuing and irrevocable guarantee to the Lenders of the payment and performance in full of the Obligations whether now existing or hereafter arising, all with the same force and effect as if Venus Israel were a signatory to the Main Street Guaranty.

4. Collateral Matters. As of the Effective Date, each Loan Party hereby irrevocably, absolutely and unconditionally becomes or reaffirms its status as, as applicable, a Grantor under the Loan Agreement and agrees to be bound by all terms, conditions, obligations, liabilities and undertakings of each Grantor or to which each Grantor is subject thereunder, including without limitation the grant pursuant to Section 4(a) of the Loan Agreement of a security interest to the Lenders in the property and rights constituting Collateral of such Grantor or in which such Grantor has or may have or acquire an interest or the power to transfer rights therein, whether now owned or existing or hereafter created, acquired or arising and wheresoever located, as security for the payment and performance of the Obligations, all with the same force and effect as if such Loan Party were a signatory to the Main Street Loan Agreement.

5. Conditions Precedent. This Agreement shall be effective upon the date on which the Lenders shall have received counterparts of this Agreement duly executed by the Borrower, the Guarantors, and the Lenders.

6. Reaffirmation. Each of the Loan Parties acknowledges and reaffirms (a) that it is bound by all of the terms of the Loan Documents to which it is a party and (b) that it is responsible for the observance and full performance of all Obligations, including without limitation, the repayment of the Loan. Furthermore, the Loan Parties acknowledge and confirm that by entering into this Agreement, the Lenders do not, except as expressly set forth herein, waive or release any term or condition of the Loan Agreement, the Note or any of the other Loans Documents or any of their rights or remedies under such Loan Documents or any applicable law or any of the obligations of the Loan Parties thereunder.

7. Representations and Warranties. Each Loan Party represents and warrants to the Lenders as follows:

(a) As of the Effective Date, no Event of Default has occurred and is continuing.

(b) The representations and warranties of the Borrower and each other Loan Party contained in Section 5 of the Loan Agreement, or which are contained in any document furnished at any time under or in connection therewith, are true and correct in all material respects (and in all respects if any such representation and warranty is already qualified by materiality or reference to material adverse effect) on and as of the Effective Date, except to the extent that such representations and warranties specifically refer to an earlier date, in which case they are true and correct in all material respects (and in all respects if any such representation and warranty is already qualified by materiality or reference to material adverse effect) as of such earlier date.

(c) Each Loan Party has the full power and authority to enter into, execute and deliver this Agreement and perform its obligations hereunder, under the Loan Agreement and under each of the other Loan Documents. The execution, delivery and performance by each Loan Party of this Agreement, and the performance by each Loan Party of the Loan Agreement and each other Loan Document to which it is a party, in each case, are within such person's powers and have been authorized by all necessary corporate action of such person.

(d) This Agreement has been duly executed and delivered by such person and constitutes such person's legal, valid and binding obligations, enforceable in accordance with its terms, except as such enforceability may be subject to (i) bankruptcy, insolvency, reorganization, fraudulent conveyance or transfer, moratorium or similar laws affecting creditors' rights generally and (ii) general principles of equity (regardless of whether such enforceability is considered in a proceeding at law or in equity).

(e) No consent, approval, authorization or order of, or filing, registration or qualification with, any court or governmental authority or third party is required in connection with the execution, delivery or performance by such person of this Agreement.

(f) The execution and delivery of this Agreement does not (i) violate, contravene or conflict with any provision of its organization documents or (ii) materially violate, contravene or conflict with any laws applicable to it or its subsidiaries.

(g) The Loan Parties' obligations are not reduced or modified by this Agreement and are not subject to any offsets, defenses or counterclaims.

8. Release. As a material part of the consideration for the Lenders entering into this Agreement (this Section 8, the "Release Provision"):

(a) Each Loan Party agrees that the Lenders, each of their respective affiliates and each of the foregoing persons' respective officers, managers, members, directors, advisors, sub-advisors, partners, agents and employees, and their respective successors and assigns (hereinafter all of the above collectively referred to as the "Lender Group"), are irrevocably and unconditionally released, discharged and acquitted from any and all actions, causes of action, claims, demands, damages and liabilities of whatever kind or nature, in law or in equity, now known or unknown, suspected or unsuspected to the extent that any of the foregoing arises from any action or failure to act under or otherwise arising in connection with the Loan Agreement, the Note or the other Loan Documents on or prior to the date hereof.

(b) Each Loan Party hereby acknowledges, represents and warrants to the Lender Group that:

(i) it has read and understands the effect of the Release Provision. Each Loan Party has had the assistance of independent counsel of its own choice, or has had the opportunity to retain such independent counsel, in reviewing, discussing, and considering all the terms of the Release Provision; and if counsel was retained, counsel for such Loan Party has read and considered the Release Provision and advised such Loan Party with respect to the same. Before execution of this Agreement, each Loan Party has had adequate opportunity to make whatever investigation or inquiry it may deem necessary or desirable in connection with the subject matter of the Release Provision.

(ii) no Loan Party is acting in reliance on any representation, understanding, or agreement not expressly set forth herein. Each Loan Party acknowledges that the Lender Group has not made any representation with respect to the Release Provision except as expressly set forth herein.

(iii) each Loan Party has executed this Agreement and the Release Provision thereof as its free and voluntary act, without any duress, coercion, or undue influence exerted by or on behalf of any person.

(iv) each Loan Party is the sole owner of its respective claims released by the Release Provision, and no Loan Party has heretofore conveyed or assigned any interest in any such claims to any other Person.

(c) The Loan Parties understand that the Release Provision was a material consideration in the agreement of the Lenders to enter into this Agreement. The Release Provision shall be in addition to any right, privileges and immunities granted to the Lenders under the Loan Documents.

9. Miscellaneous.

(a) The Loan Agreement and the Note, each as may be modified hereby, and the obligations of the Loan Parties thereunder and under the other Loan Documents, are hereby ratified and confirmed and shall remain in full force and effect according to their terms. This Agreement shall constitute a Loan Document under Loan Agreement.

(b) This Agreement may be executed in any number of counterparts, each of which when so executed and delivered shall be an original, but all of which shall constitute one and the same instrument. Delivery of an executed counterpart of this Agreement by telecopy shall be effective as an original and shall constitute a representation that an executed original shall be delivered.

(c) **THIS AGREEMENT AND THE RIGHTS AND OBLIGATIONS OF THE PARTIES HEREUNDER SHALL BE GOVERNED BY AND CONSTRUED AND INTERPRETED IN ACCORDANCE WITH THE LAWS OF THE STATE OF NEW YORK.**

[Signature pages follow]

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be duly executed as of the date first above written.

VENUS CONCEPT USA INC.**,** as Borrower and a Grantor

By: */s/ Rajiv De Silva*
Name: Rajiv De Silva
Title: President and Assistant Secretary

VENUS CONCEPT INC.**,** as a Guarantor and a Grantor

By: */s/ Rajiv De Silva*
Name: Rajiv De Silva
Title: Chief Executive Officer

VENUS CONCEPT CANADA CORP., as a Guarantor and a Grantor

By: */s/ Hemanth Varghese*
Name: Hemanth Varghese
Title: President and General Manager

VENUS CONCEPT LTD, as a Guarantor and a Grantor

By: */s/ Rajiv De Silva*
Name: Rajiv De Silva
Title: Chief Executive Officer

MADRYN HEALTH PARTNERS, LP, as a Lender

By: MADRYN HEALTH ADVISORS, LP,
its General Partner

By: MADRYN HEALTH ADVISORS GP, LLC,
its General Partner

By: */s/Avinash Amin*
Name: Avinash Amin
Title: Member

MADRYN HEALTH PARTNERS (CAYMAN MASTER), LP, as a Lender

By: MADRYN HEALTH ADVISORS, LP,
its General Partner

By: MADRYN HEALTH ADVISORS GP, LLC,
its General Partner

By: */s/Avinash Amin*
Name: Avinash Amin
Title: Member

ANNEX A
AMENDED LOAN AGREEMENT

LOAN AND SECURITY AGREEMENT
[MAIN STREET PRIORITY LOAN FACILITY]

THIS LOAN AND SECURITY AGREEMENT (this "Agreement") dated as of this 8 day of December, 2020, by and between VENUS CONCEPT USA INC., a Delaware corporation, whose address is 1880 N. Commerce Parkway, Suite 2, Weston, Florida 33326 (the "Borrower"), ~~and CITY NATIONAL BANK OF FLORIDA, its successors and/or assigns (the "Lender"), whose address is 100 S.E. 2nd Street, 13th Floor, Miami, Florida 33131~~MADRYN HEALTH PARTNERS, LP ("Madryn Health"), MADRYN HEALTH PARTNERS (CAYMAN MASTER), LP ("Madryn Cayman" and together with Madryn Health, the "Lenders" and each a "Lender").

RECITALS

A. ~~A.Borrower has requested and Lender has~~On December 8, 2020, City National Bank of Florida ("CNB") agreed to make a term loan to Borrower in the original principal amount of FIFTY MILLION AND 00/100 DOLLARS ($50,000,000.00) (the "Loan"), to provide additional credit assistance to the Borrower in order to maintain or reinstate ongoing operations and payroll as a result of the COVID-19 pandemic, pursuant to the Main Street Priority Loan Facility as established by the Board of Governors of the Federal Reserve System under Section 13(3) of the Federal Reserve Act, and subject to the terms and conditions contained in this Agreement.

B. Pursuant that certain Main Street Loan – Venus Concept – Sale and Assignment Agreement, dated April 23, 2024, CNB assigned, transferred, and conveyed all of its rights, title and interest in and to the Loan and all Loan Documents (as defined herein) to the Lenders.

~~B~~C. Borrower and ~~Lender~~the Lenders have negotiated the terms and conditions of, and wish to enter into, this Agreement in order to set forth the terms and conditions of the Loan.

NOW, THEREFORE, in consideration of the mutual covenants and agreements set forth below, ~~Borrower and Lender~~the Loan Parties (as defined below) and the Lenders agree as follows:

1. DEFINITIONS. As used in this Agreement the terms listed below shall have the following meanings unless otherwise required by the context:

(a) Bank Product Obligations: Shall mean all obligations, liabilities, contingent reimbursement obligations, fees, and expenses owing by an Obligor or any subsidiary of an Obligor to the~~Lender~~Lenders or any affiliate of the ~~Lender~~Lenders pursuant to or evidenced by certain cash management service agreements entered into from time to time by an Obligor or any subsidiary of an Obligor with the ~~Lender~~Lenders or any affiliate of the ~~Lender~~Lenders concerning Bank Products and irrespective of whether for the payment of money, whether direct or indirect, absolute or contingent, due or to become due, now existing or hereafter arising.

(b) Bank Products: Shall mean any service or facility extended to an Obligor or any subsidiary of an Obligor by the ~~Lender~~Lenders or any affiliate of the ~~Lender~~Lenders, including: (a) credit cards, (b) credit card processing services, (c) debit cards, (d) purchase cards, (e) ACH transactions, or (f) cash management, including controlled disbursement, accounts or services.

(c) Borrower Certification: That certain Main Street Priority Loan Facility Borrower Certifications and Covenants dated as of ~~even date herewith~~December 8, 2020, from Borrower in favor of Lender, as the same may be amended or modified from time to time.

(d) Capital Lease(s): Means, with respect to any Person, any lease of (or other agreement conveying the right to use) any real and personal property by such Person that is accounted for as a capital lease on the balance sheet of such Person.

(e) CARES Act: The Coronavirus Aid, Relief, and Economic Security Act.

(f) Change of Control: ~~A change of ownership in excess of fifty-one percent (51%) of the ownership interests of Borrower or Guarantor~~means, with respect to any Loan Party, the occurrence of, for any reason whatsoever, any "person" or "group" (as such terms are used in Sections 13(d) and 14(d) of the Exchange Act, but excluding any employee benefit plan of such person or its subsidiaries, and any person or entity acting in its capacity as trustee, agent or other fiduciary or administrator of any such plan), other than any of the Permitted Holders, becomes the "beneficial owner" (as defined in Rules 13d-3 and 13d-5 under the Exchange Act, except that a person or group shall be deemed to have "beneficial ownership" of all securities that such person or group has the right to acquire (such right, an "option right"), whether such right is exercisable immediately or only after the passage of time), directly or indirectly, of 50% or more of the equity interests of such Loan Party entitled to vote for members of the Board of Directors of such Loan Party on a fully diluted basis (and taking into account all such securities that such person or group has the right to acquire pursuant to any option right).

(g) Collateral: Shall have the meaning ascribed to such term in Section 4 hereof. Collateral shall not include Excluded Property.

(h) EBITDA: The sum of earnings before interest, taxes, depreciation, and amortization.

(i) Excluded Property: Means, with respect to Borrower: (a) any personal property (including, without limitation, motor vehicles) in respect of which perfection of a lien is not governed by the UCC; provided, that IP Rights (as defined in Section 4(a)) of Venus Canada or Venus Israel shall not be Excluded Property; and (b) any permit, lease, license, contract or other agreement if the grant of a security interest in such permit, lease, license, contract or other agreement in the manner contemplated by the Loan Documents, under the terms thereof or under applicable law or regulation, is prohibited and would result in the termination thereof or give the other parties thereto the right to terminate, accelerate or otherwise alter Borrower's rights, titles and interests thereunder (including upon the giving of notice or the lapse of time or both); provided, that, (i) any such limitation described in the foregoing clause (b) on the security interests granted under the Loan Documents shall only apply to the extent that any such prohibition is not rendered ineffective pursuant to the UCC that has the effect of permitting the grant of a security interest and preventing any termination, acceleration or alteration of Borrower's rights, titles and interests thereunder as a result of such grant of a security interest and (ii) in the event of the termination or elimination of any such prohibition or the requirement for any consent contained in any applicable law, regulation, permit, lease, license, contract or other agreement, or upon the granting of any such consent, or waiving or terminating any requirement for such consent, a security interest in such permit, lease, license, contract or other agreement shall be automatically and simultaneously granted under the Loan Documents and such permit, lease, license, contract or other agreement shall be included as Collateral.

(j) Facility: The Main Street Priority Loan Facility, which has been authorized under Section 13(3) of the Federal Reserve Act.

(k) FAQS: The Main Street Lending Program Frequently Asked Questions as published by the Board of Governors of the Federal Reserve System, as the same may be amended or modified from time to time.

(l) Financing Statement(s): The financing statement(s) from ~~Borrower to Lender~~a Loan Party in favor of the Lenders to perfect ~~Lender's~~Lenders' security interest in the Collateral.

(m) GAAP: Generally accepted accounting principles consistently applied, as adopted in the United States, and as amended from time to time.

(n) Governmental Assignee: Shall have the meaning ascribed to such term in the instructions to the Borrower Certification.

(o) Governmental Authority: Any governmental or quasi-governmental authority, agency, authority, board, commission, or governing body authorized by federal, state or local laws or regulations as having jurisdiction over the ~~Lender or the Borrower or the Guarantor~~Lenders or a Loan Party.

(p) ~~"Guarantor" shall mean each~~Grantor: Each of (i) the Borrower, (ii) Venus Concept Inc., a Delaware corporation ("~~Original Guarantor~~Venus Concept"), (~~i~~iii) Venus Concept Canada Corp., a corporation incorporated under the laws of the Province of Ontario ("~~New Guarantor" and, together with the Borrower and the Original~~ Venus Canada") and (iv) Venus Concept Ltd., a company formed under the Companies Law of Israel ("Venus Israel").

(q) ~~(p)~~ Guarantor~~, the "All-Assets Grantors")~~; means each of (i) Venus Concept, (ii) Venus Canada, (iii) Venus Israel and (iv) any other individual or entity now or hereafter guaranteeing the Loan.

(r) ~~(q)~~ Guaranty: That certain Guaranty of Payment and Performance dated as of even date herewith from each Guarantor in favor of Lender, as the same may be amended or modified from time to time.

(s) ~~(r)~~ Loan: That certain term loan in the original principal amount of FIFTY MILLION AND 00/100 DOLLARS ($50,000,000.00), made pursuant to the Facility, as evidenced by the Note and other Loan Documents as provided herein.

(t) ~~(s) "~~Loan Documents~~"~~: shall mean any and all documents evidencing, securing or executed in connection with the Loan, including, without limitation, (i) the Note, (ii) this Agreement, (iii) that certain Loan Modification Agreement, dated as of October 4, 2023 (the "First Modification"), among ~~the Lender~~CNB, the Borrower, the Guarantors, ~~Venus Concept Ltd., a company formed under the Companies Law of Israel (the "Israeli Grantor", and together with the Original Guarantor and the Borrower, the "IP Grantors", the Israeli Grantor, together with the All-Assets Grantors, the "Grantors") Madryn Health Partners, LP, a Delaware limited partnership ("Madryn DE"), and Madryn Health Partners (Cayman Master), LP, a Cayman Islands limited partnership ("Madryn Cayman" and, together with Madryn DE, the "Madryn Junior Creditors")~~Madryn Health, and Madryn Cayman, (iv) that certain Loan Modification Agreement, dated as of January 18, 2024 (the "Second Modification") among ~~the Lender~~CNB, the Obligors, ~~and the Madryn Junior Creditors, (v~~Madryn Health and Madryn Cayman, and, (v) that certain Loan Amendment and Consent Agreement, dated as of May 24, 2024 (the "Third Modification") among the Lenders and Loan Parties, (vi) the Main Street Subordination Agreements (as defined in the Second Modification) and (~~vi~~vii) that certain intercreditor agreement, dated as of January 18, 2024, (the "Intercreditor Agreement") among the Obligors, ~~the Lender, the~~CNB, Madryn ~~Junior Creditors~~Health, Madryn Cayman, EW Healthcare Partners, L.P. and EW Healthcare Partners-A, L.P. (collectively, the "EW Junior Creditors").

(u) Loan Parties: Means, collectively, the Borrower and the Guarantors.

(v) ~~(t)~~ Madryn Debt: Means the indebtedness outstanding under those certain secured subordinated convertible notes issued by Borrower pursuant to that certain Securities Exchange and Registration Rights Agreement dated as of the date hereof by and among Borrower, the Guarantors (as defined therein), each Investor (as defined therein) party thereto and MADRYN HEALTH PARTNERS, LP, in the principal amount of $26,695,110.54, which indebtedness is guaranteed by Borrower pursuant to that certain Guaranty and Security Agreement to be dated as of the date of funding of the Loan.

(w) ~~(u)~~ Mortgage Debt: Shall have the meaning given to such term in the FAQS.

(x) ~~(v)~~ Note: That certain Promissory Note dated as of even date herewith from Borrower in favor of ~~Lender~~the Lenders in the original principal amount of $50,000,000.00, as the same may be amended, restated, modified ~~or~~, replaced or exchanged from time to time.

(y) ~~(w)~~ Obligations: Shall mean all loans, advances and other financial accommodations made or extended by a Lender to an Obligor, including, without limitation, those arising pursuant to the Note and ~~the~~this Loan Agreement, all interest accrued thereon (including interest which would be payable as post-petition in connection with any bankruptcy or similar proceeding, whether or not permitted as a claim thereunder), any fees due the ~~Lender~~Lenders under the Loan Documents, any expenses incurred by the ~~Lender~~Lenders under the Loan Documents and any and all other liabilities and obligations of an Obligor to the ~~Lender~~Lenders, including any reimbursement obligations of an Obligor to ~~Lender~~Lenders in respect of any letter of credit issued by the ~~Lender~~Lenders for the account of an Obligor and surety bonds, and all Bank Product Obligations of an Obligor, all in each case howsoever created, arising or evidenced, whether direct or indirect, absolute or contingent, now or hereafter existing, or due or to become due, together with any and all renewals or extensions thereof.

(z) ~~(x) "~~Obligor~~"~~: shall mean the ~~Borrower, the~~ Grantors, any subsidiary of the Borrower, any other guarantor, accommodation endorser, third-party grantor, or any other party liable with respect to the Obligations.

(aa) ~~(y)~~ Permitted Debt: Shall mean (i) the Loan, (ii) the endorsement of checks for collection in the ordinary course of business, (iii) debt payable to suppliers and other trade creditors in the ordinary course of business on ordinary and customary trade terms and which is not past due, (iv) unsecured intercompany debt, (v) Mortgage Debt, (vi) any existing debt owed by Borrower ~~or~~ to ~~Lender~~the Lenders, (vii) purchase money debt (including obligations in respect of Capital Leases) hereafter incurred by Borrower to finance the purchase of fixed assets, and renewals, refinancings and extensions thereof; provided, that, (x) the total of all such debt for Borrower taken together shall not exceed an aggregate principal amount of $500,000.00 at any one time outstanding, (y) such debt when incurred shall not exceed the purchase price of the asset(s) financed and (z) no such debt shall be refinanced for a principal amount in excess of the principal balance outstanding thereon at the time of such refinancing, (viii) unsecured debt in respect of netting services, overdraft protections, employee credit cards programs, automatic clearinghouse arrangements and similar arrangements in each case in connection with deposit accounts and debt arising from the honoring of a bank or other financial institution of a check, draft or similar instrument drawn against insufficient funds in the ordinary course of business; provided, that, the aggregate outstanding principal amount of such debt shall not at any time exceed $750,000.00, (ix) unsecured debt subordinated upon terms reasonably satisfactory to ~~Lender~~the Lenders in all respects, (x) the Madryn Debt and (~~y~~xi) the EW Junior Debt.

(bb) Permitted Holders: (a) Aperture Venture Partners II, L.P., Aperture Venture Partners II-A, L.P., Aperture Venture Partners II-B, L.P., Aperture Venture Partners III, L.P., Deerfield Special Situations Fund, L.P., SEDCO Capital Global Funds - SC Private Equity Global Fund IV, SEDCO Capital Cayman Ltd., Longitude Venture Partner II L.P., Venus Technologies Ltd., EW Healthcare Partners, L.P., EW Healthcare Partners-A, L.P., Healthquest Partners, L.P., Healthquest Partners II, L.P., Madryn Health Partners, LP, Madryn Health Partners (Cayman Master), LP, and any Controlled Investment Affiliate of any of the foregoing Persons, (b) Domenic Serafino and (c) Senior Management Persons (defined as Rajiv De Silva, Hemanth Varghese, Domenic Della Penna, Willliam McGrail, Ross Portaro, Anna Georgiadis and Michael Mandarello) of the Company and Board Members of the Company, in each case, for so long as such Persons are actively employed by the Company in such capacity or serve in such capacity, as the case may be.

(cc) ~~(z)~~ Permitted Liens: Shall mean (i) liens securing obligations under the Loan; (ii) liens on real property in connection with loans with respect to which substantially all of the proceeds were used for acquisition, construction, fit-out, and/or renovation of such property; (iii) (1) liens over the ERTC Collateral securing the EW Junior Debt and (2) liens securing Permitted Debt that are junior or pari-passu to any lien securing the Loan; (iv) liens on receivables assets and related assets incurred in connection with a receivables facility, provided that such debt is secured only by the newly acquired property; (v) liens for taxes, fees, assessments or other government charges or levies, either not delinquent or being contested in good faith; (vi) statutory liens securing claims or demands of materialmen, suppliers, producers, mechanics, carriers, warehousemen, landlords and other Persons imposed without action of such parties; (vii) liens to secure payment of workers' compensation, employment insurance, old-age pensions, social security and other like obligations incurred in the ordinary course of business (other than liens imposed by ERISA); (viii) liens that are rights of set-off, bankers' liens or similar non-consensual liens relating to deposit or securities accounts in favor of banks, other depositary institutions and securities intermediaries arising in the ordinary course of business of Borrower; (ix) liens on limited recourse equipment financings (including equipment capital or finance leasing and purchase money equipment loans) secured only by the acquired equipment; (x) deposits to secure the performance of bids, trade contracts and leases (other than indebtedness), statutory obligations, surety and appeal bonds, performance bonds and other obligations of a like nature incurred in the ordinary course of business; (xi) easements, rights-of-way, restrictions and other similar encumbrances affecting real property which, in the aggregate, are not substantial in amount, and which do not in any case materially detract from the value of the property subject thereto or materially interfere with the ordinary conduct of the business of the applicable Person; (xii) liens securing judgments for the payment of money (or appeal or other surety bonds relating to such judgments) not constituting an Event of Default; (xiii) normal and customary rights of setoff upon deposits of cash in favor of banks or other depository institutions; (xiv) liens of a collection bank arising under Section 4-210 of the UCC on items in the course of collection; (xv) reservations, limitations, provisos and conditions expressed in any original grants from the crown or other grants of real or immovable property, or interest therein, which do not materially affect the use of the affected land for the purpose for which it was used by that Person; (xvi) security given to a public utility or Governmental Authority when required by such utility or authority (excluding, for the avoidance of doubt, security in connection with Indebtedness for borrowed money) in connection with the operations of that Person in the ordinary course of its business provided that such security does not materially impair the use of the affected property for the purpose for which it was used by that Person; and (xvii) liens arising from precautionary UCC financing statements or similar filings under applicable law regarding operating leases entered into by the Borrower in the ordinary course of business.

(dd) ~~(aa)~~ Person: A natural person, a partnership, a joint venture, an unincorporated association, a limited liability company, a corporation, a trust, any other legal entity, or any Governmental Authority.

~~(bb) SPV: MS FACILITIES LLC, a Delaware limited liability company.~~

(ee) ~~(cc) "~~UCC~~"~~: shall mean, as applicable, (i) the Uniform Commercial Code in effect from time to time in the State of Delaware and (ii) the Uniform Commercial Code in effect from time to time in the District of Columbia. Any term used in this Agreement, any other Loan Document or any Financing Statement filed in connection herewith which is defined in the UCC and not otherwise defined in this Agreement or in any other Loan Document has the meaning given to such term in the UCC.

~~(dd) Unmatured Event of Default: Any event that, if it continues uncured, will, with lapse of time or notice, or both, constitute an Event of Default hereunder and under the other Loan Documents.~~

2. LOAN. All Loan proceeds under the Note ~~shall be funded within three (3) business days of~~have been funded prior to the date of the ~~Commitment Letter (as defined in Section 6(gg) below)~~Third Modification.

3. EXPENSES: Borrower shall pay all fees and charges incurred in the procuring and making of the Loan and all other expenses incurred by ~~Lender~~the Lenders during the term of the Loan, ~~including without limitation, Florida Documentary Stamp Taxes, if applicable,~~ and the fees of the attorneys for ~~Lender~~the Lenders. The Borrower shall also pay any and all insurance premiums, taxes, assessments, and other charges, liens and encumbrances upon the Collateral. Such amounts, unless sooner paid, shall be paid from time to time as ~~Lender~~the Lenders shall request either to the Person to whom such payments are due or to ~~Lender if Lender has~~the Lenders if the Lenders have paid the same.

4. SECURITY AGREEMENT.

(a) ~~(a)~~ Security for Obligations. ~~As security for~~To secure the prompt payment and performance in full when due, whether by lapse of time, acceleration, mandatory prepayment or otherwise, of the Obligations, each ~~All-Assets Grantor, for itself, does hereby pledge, assign, transfer, deliver and grant to the Lender, for its own benefit and as agent for its affiliates,~~Grantor hereby grants to each of the Lenders a continuing ~~and unconditional~~ security interest in ~~and to any and all property of such All-Assets Grantor, of any kind or description, tangible or intangible, wheresoever located and~~any and all right, title and interest of such Grantor in and to all of the following, whether now owned or existing or ~~hereafter arising or acquired, including the following (all of which property, along with the products and proceeds therefrom, are individually and~~ owned, acquired or arising hereafter (collectively ~~referred to as~~, the "~~All-Assets~~ Collateral"):

(i) all Accounts;

~~(i) all property of, or for the account of, such All-Assets Grantor, whether now existing or hereafter arising or acquired, and wherever now or hereafter located, together with all additions and accessions thereto, substitutions, betterments and replacements therefor, products and Proceeds therefrom, and all of such All-Assets Grantor's books and records and recorded date relating thereto (regardless of the medium of recording or storage), together with all of such All-Assets Grantor's right, title and interest in and to all computer software required to utilize, create, maintain and process any such records or data on electronic media, identified and set forth as follows:~~

~~(1) All Accounts and all Goods whose sale, lease or other disposition by such All-Assets Grantor has given rise to Accounts and have been returned to, or repossessed or stopped in transit by, such All-Assets Grantor, or rejected or refused by an Account Debtor;~~

~~(2) All Inventory, including raw materials, work-in-process and finished goods;~~

~~(3) All Goods (other than Inventory), including embedded software, Equipment, vehicles, furniture and Fixtures;~~

~~(4) All Software and computer programs;~~

~~(ii)~~ all Chattel Paper;

~~(iii)~~ all Commercial Tort Claims;

~~(iv)~~ all Copyrights;

~~(v)~~ all Copyright Licenses;

~~(vi)~~ ~~(5) All Securities, Investment Property, Financial Assets and~~all Deposit Accounts;

~~(6) All Chattel Paper, Electronic Chattel Paper, Instruments, Documents, Letter of Credit Rights, all proceeds of letters of credit, Health-Care-Insurance Receivables, Supporting Obligations, notes secured by real estate, Commercial Tort Claims and General Intangibles, including Payment Intangibles; and~~

~~(7) All Proceeds (whether Cash Proceeds or Noncash Proceeds) of the foregoing property, including all insurance policies and proceeds of insurance payable by reason of loss or damage to the foregoing property, including unearned premiums, and of eminent domain or condemnation awards.~~

~~(ii) In addition to, and not in substitution of, the security interest granted by the Original Guarantor to the Lender pursuant to Section 4(a)(i), as security for the payment and performance of the Obligations, the Original Guarantor, for itself, does hereby pledge, assign, transfer, deliver and grant to the Lender, for its own benefit and as agent for its affiliates, a continuing and unconditional security interest in and to any and all of the right, title, and interest of the Grantor in, to, and under the following (the "Original Guarantor IP Collateral"):~~

~~(1) the patents and patent applications set forth in Exhibit A to the Modification and all reissues, divisions, continuations, continuations-in-part, renewals, extensions, and reexaminations thereof and amendments thereto;~~

~~(2) any and all royalties, fees, income, payments, and other proceeds now or hereafter due or payable with respect to any and all of the foregoing; and~~

~~(vii)~~ all Documents;

~~(3) any and all claims and causes of action with respect to any of the foregoing, whether occurring before, on, or after the date hereof, including all rights to and claims for damages, restitution, and injunctive and other legal and equitable relief for past, present, and future infringement, dilution, misappropriation, violation, misuse, breach, or default, with the right, but no obligation, to sue for such legal and equitable relief and to collect, or otherwise recover, any such damages.~~

~~(iii) In addition to, and not in substitution of, the security interest granted by the Borrower to the Lender pursuant to Section 4(a)(i), as security for the payment and performance of the Obligations, the Borrower, for itself, does hereby pledge, assign, transfer, deliver and grant to the Lender, for its own benefit and as agent for its affiliates, a continuing and unconditional security interest in and to any and all of the right, title, and interest of the Grantor in, to, and under the following (the "Borrower IP Collateral"):~~

~~(1) all of its trademark registrations and applications registered with the United States Patents and Trademark Offices, including those set forth in Exhibit B to the Modification, together with the goodwill connected with the use thereof and symbolized thereby, and all extensions and renewals thereof;~~

~~(2) any and all royalties, fees, income, payments, and other proceeds now or hereafter due or payable with respect to any and all of the foregoing; and~~

~~(viii)~~ all Domain Names;

~~(3) any and all claims and causes of action with respect to any of the foregoing, whether occurring before, on, or after the date hereof, including all rights to and claims for damages, restitution, and injunctive and other legal and equitable relief for past, present, and future infringement, dilution, misappropriation, violation, misuse, breach, or default, with the right, but no obligation, to sue for such legal and equitable relief and to collect, or otherwise recover, any such damages.~~

(iv) As security for the payment and performance of the Obligations, the Israeli Grantor, for itself, does hereby pledge, assign, transfer, deliver and grant to the Lender, for its own benefit and as agent for its affiliates, a continuing and unconditional security interest in and to any and all of the right, title, and interest of the Grantor in, to, and under the following (the "Israeli IP Collateral" and, together with the Original Guarantor IP Collateral and the Borrower IP Collateral, the "IP Collateral"; the IP Collateral, together with the All-Assets Collateral, the "Collateral"):

(1) the patents and patent applications set forth in Exhibit C to the Modification and all reissues, divisions, continuations, continuations-in-part, renewals, extensions, and reexaminations thereof and amendments thereto;

(2) all rights of any kind whatsoever of the Grantor accruing under any of the foregoing provided by applicable law of any jurisdiction, by international treaties and conventions, and otherwise throughout the world;

(3) any and all royalties, fees, income, payments, and other proceeds now or hereafter due or payable with respect to any and all of the foregoing; and

(ix) all Drug or Device Applications;

(4) any and all claims and causes of action with respect to any of the foregoing, whether occurring before, on, or after the date hereof, including all rights to and claims for damages, restitution, and injunctive and other legal and equitable relief for past, present, and future infringement, dilution, misappropriation, violation, misuse, breach, or default, with the right, but no obligation, to sue for such legal and equitable relief and to collect, or otherwise recover, any such damages.

(x) all Equipment;

(xi) all Fixtures;

(xii) all General Intangibles;

(xiii) all Goods;

(xiv) all Governmental Licenses;

(xv) all Instruments;

(xvi) all Inventory;

(xvii) all Investment Property;

(xviii) all IP Rights;

(xix) all Letter-of-Credit Rights;

(xx) all Money;

(xxi) all Patents;

(xxii) all Patent Licenses

(xxiii) all Payment Intangibles;

~~(xxiv)~~ all Pledged Shares;

~~(xxv)~~ Proprietary Databases;

~~(xxvi)~~ all Proprietary Software;

~~(xxvii)~~ all Software;

~~(xxviii)~~ all Supporting Obligations;

~~(xxix)~~ all Trademarks;

~~(xxx)~~ all Trademark Licenses;

~~(xxxi)~~ all Trade Secrets;

~~(xxxii)~~ all Websites;

~~(xxxiii)~~ all Website Agreements; and

~~(xxxiv)~~ all Accessions and all Proceeds of any and all of the foregoing.

Notwithstanding anything to the contrary contained herein, the security interests granted under this Agreement shall not extend to any Excluded Property and the Lenders' security interest over the ERTC Collateral (as defined in the Second Modification) shall be subordinated pursuant to the terms of the New Main Street Subordination Agreement (as defined in the Second Modification) to the EW Junior Creditor's security interest over such ERTC Collateral as security for the Venus Concept's obligations to the EW Junior Creditor as issuer of secured subordinated convertible promissory notes in an aggregate principal amount not to exceed $2,000,000 (the "EW Junior Debt").

Without limiting the generality of the foregoing, it is hereby specifically understood and agreed that a Grantor may from time to time hereafter deliver additional Equity Interests to the Lenders as collateral security for the Obligations. Upon delivery to the Lenders, such additional Equity Interests shall be deemed to be part of the Pledged Shares of such Grantor and shall be subject to the terms of this Agreement.

~~(v)~~ Each ~~of IP~~ Grantor, for itself, hereby represents and warrants to the ~~Lender~~Lenders that with respect to its IP Rights: (i) it owns the entire right, title and interest in its respective IP ~~Collateral~~Rights and that no claims have been asserted challenging such ~~IP~~ Grantor's inventorship of the subjects of the patents and trademarks, or the ownership, or right to use its respective IP ~~Collateral~~Rights; (ii) its respective IP ~~Collateral is~~Rights are valid and enforceable and there are no pending or threatened claims or legal actions asserting that such IP ~~Collateral is~~Rights are invalid or unenforceable; (iii) such ~~IP~~ Grantor has the right to sell, license, grant a security interest in, or otherwise transfer its respective IP ~~Collateral~~Rights, and has obtained the assignment of all interests and all rights to its respective IP ~~Collateral~~Rights from any and all third parties (including its employees); (iv) its respective IP ~~Collateral is~~Rights are not and has not been the subject matter of any dispute or potential dispute; (v) it has not granted any right, license or interest in or to its respective IP ~~Collateral~~Rights that is in conflict with the rights of ~~Lender~~the Lenders granted under Section 4(a)~~(ii), Section 4(a)(iii) or Section 4(a)(iv), as applicable~~, or the Loan Documents, nor has it encumbered any of its IP ~~Collateral~~Rights other than liens in favor of the holders of the Madryn Debt and EW Junior Debt which have been subordinated to the security interest created hereby in favor of the ~~Lender, for its own benefit and as agent for its affiliates~~Lenders, pursuant to the applicable Main Street Subordination Agreement; (vi) no third party has made any claim in writing that the use of its respective IP ~~Collateral~~Rights infringes upon the rights of such third party; and it has not made any claim in writing that any third party has infringed upon or misappropriated any of its IP ~~Collateral right~~Rights; and (vii) it possesses all necessary rights and privileges to cause its respective IP ~~Collateral~~Rights to be duly and appropriately registered in, filed in, or issued by the United States Patent and Trademark Office, or the corresponding offices of other jurisdictions and countries, and there is no fact or circumstance which would prevent such registration, filing or issuance.

~~Notwithstanding anything to the contrary set forth herein, (x) the term "Collateral" shall not include any Excluded Property and (y) the Lender's security interest over the ERTC Collateral (as defined in the Second Modification) shall be subordinated pursuant to the terms of the New Main Street Subordination Agreement (as defined in the Second Modification) to the EW Junior Creditor's security interest over such ERTC Collateral as security for Venus Inc.'s obligations to the EW Junior Creditor as issuer of secured subordinated convertible promissory notes in an aggregate principal amount not to exceed $2,000,000 (the "EW Junior Debt").~~

The Grantors hereby acknowledge and agree that the security interest created hereby in the Collateral (i) constitutes continuing collateral security for all of the Obligations, whether now existing or hereafter arising and (ii) is not and shall not be construed as an assignment of any IP Rights.

For the purposes of this Section 4(a):

(i) The following terms shall have the meanings assigned thereto in the UCC (defined below): Accession, Account, Chattel Paper, Commercial Tort Claim, Deposit Account, Document, Equipment, Fixtures, General Intangible, Goods, Instrument, Inventory, Investment Property, Letter-of-Credit Right, Money, Payment Intangibles, Proceeds, Security, Software and Supporting Obligation.

(ii) As used herein, the following terms shall have the meanings set forth below:

"Additional Pledged Shares" means one hundred percent (100%) of the issued and outstanding Equity Interests of any Person that becomes a Loan Party hereunder, including without limitation, the certificates (or other agreements or instruments) representing such Equity Interests and all options and other rights, contractual or otherwise, with respect thereto.

"Copyright License" means any agreement, whether written or oral, providing for the grant of any right to use any Work under any Copyright.

"Copyrights" means (a) all proprietary rights afforded Works pursuant to Title 17 of the United States Code, including, without limitation, all rights in mask works, copyrights and original designs, and all proprietary rights afforded such Works by other countries for the full term thereof (and including all rights accruing by virtue of bilateral or international treaties and conventions thereto), whether registered or unregistered, including, but not limited to, all applications for registration, renewals, extensions, reversions or restorations thereof now or hereafter provided for by law and all rights to make applications for registrations and recordations, regardless of the medium of fixation or means of expression, which are owned by any Grantor or which any Grantor is licensed, authorized or otherwise granted rights under or to and (b) all copyright rights under the copyright laws of the United States, Canada, Israel and all other countries for the full term thereof (and including all rights accruing by virtue of bilateral or international copyright treaties and conventions), whether registered or unregistered, including, but not limited to, all applications for registration, renewals, extensions, reversions or restorations of copyrights now or hereafter provided for by law and all rights to make applications for copyright registrations and recordations, regardless of the medium of fixation or means of expression, which are owned by any Grantor or which any Grantor is licensed, authorized or otherwise granted rights under or to.

"Domain Names" means all domain names and URLs that are registered and/or owned by any Grantor or which any Grantor is licensed, authorized or otherwise granted rights under or to.

"Drug or Device Application" means a New Drug Application, an Abbreviated New Drug Application, or a product license application, as those terms are defined in the FDCA, for any Product, as appropriate, in each case of any Grantor.

"Equity Interests" means, with respect to any Person, all of the shares of capital stock of (or other ownership or profit interests in) such Person, all of the warrants, options or other rights for the purchase or acquisition from such Person of shares of capital stock of (or other ownership or profit interests in) such Person, all of the securities convertible into or exchangeable for shares of capital stock of (or other ownership or profit interests in) such Person or warrants, rights or options for the purchase or acquisition from such Person of such shares (or such other interests), and all of the other ownership or profit interests in such Person (including partnership, member, membership or trust interests therein), whether voting or nonvoting, and whether or not such shares, warrants, options, rights or other interests are outstanding on any date of determination; provided, however, that Equity Interests shall not include indebtedness having a feature which entitles the holder thereof to convert or exchange all or a portion of such indebtedness into or by reference to Equity Interests of the Company.

"FDA" means the Food and Drug Administration of the United States of America or any successor entity thereto.

"FDCA" means the Federal Food, Drug and Cosmetic Act, as amended, 21 U.S.C. Section 301 et seq. and all regulations promulgated thereunder.

"Governmental Licenses" means all applications to and requests for approval from a Governmental Authority for the right to manufacture, import, store, market, promote, advertise, offer for sale, sell, use and/or otherwise distribute a Product, including, without limitation, all filings filed with the FDA and Health Canada, and all authorizations issuing from a Governmental Authority based upon or as a result of such applications and requests, which are owned by any Grantor, acquired by any Grantor via assignment, purchase or otherwise or that any Grantor is licensed, authorized or otherwise granted rights under or to.

"Health Canada" means the Canadian Food Inspection Agency and the Department of Health Canada, as applicable.

"IP Rights" means all worldwide intellectual property rights, industrial property rights, proprietary rights and common-law rights, whether registered or unregistered, Copyrights, Domain Names, Patents, Trademarks, Proprietary Databases, Proprietary Software, Websites and Trade Secrets, including without limitation, all rights to and under all new and useful algorithms, concepts, data (including all clinical data relating to a Product), databases, designs, discoveries, inventions, know-how, methods, processes, protocols, chemistries, compositions, show-how, software (other than commercially available, off-the-shelf or open source), specifications for Products, techniques, technology, trade dress and all improvements thereof and thereto, which is owned by any Grantor or which any Grantor is licensed, authorized or otherwise granted rights under or to.

"Patent License" means any agreement, whether written or oral, providing for the grant of any right to make, use, offer for sale, import, sell or otherwise exploit any invention, in each case, under any Patent.

"Patents" means all registered letters patent and patent applications in the United States, Canada, Israel and all other countries (and all letters patent that issue therefrom) and all reissues, reexaminations, extensions, renewals, divisions and continuations (including continuations-in-part and continuing prosecution applications) thereof, for the full term thereof, together with the right to claim the priority thereto and the right to sue for past infringement of any of the foregoing, which are owned by any Grantor or which any Grantor is licensed, authorized or otherwise granted rights under or to.

"Pledged Shares" means (a) one hundred percent (100%) of the issued and outstanding Equity Interests of each subsidiary owned directly by a Grantor, together with the certificates (or other agreements or instruments), if any, representing such Equity Interests, and all options and other rights, contractual or otherwise, with respect thereto, including, but not limited to, the following: (i) all shares, securities, membership interests and other Equity Interests or other property representing a dividend or other distribution on or in respect thereof, or representing a distribution or return of capital upon or in respect thereof, or resulting from a stock split, revision, reclassification or other exchange therefor, and any other dividends, distributions, subscriptions, warrants, cash, securities, instruments, rights, options or other property issued to or received or receivable by the holder of, or otherwise in respect thereof; and (ii) without affecting the obligations of the Grantors under any provision prohibiting such action hereunder or under the other Transaction Documents, in the event of any consolidation or merger involving the issuer of any Pledged Shares and in which such issuer is not the surviving Person, all Equity Interests of the successor Person formed by or resulting from such consolidation or merger, (b) all Additional Pledged Shares, and (c) all Accessions and all Proceeds of any and all of the foregoing.

"Product" means any product or service developed, manufactured, marketed, imported or offered for sale, sold, used, distributed or otherwise commercialized by any Loan Party or any subsidiary.

"Proprietary Databases" means any material non-public proprietary database or information repository that is owned by any Grantor or that any Grantor is licensed, authorized or otherwise granted rights under or to.

"Proprietary Software" means any proprietary software owned, licensed or otherwise used (other than any software that is generally commercially available, off-the-shelf and/or open source) including, without limitation, the object code and source code forms of such software and all associated documentation, which is owned by any Grantor or which any Grantor is licensed, authorized or otherwise granted rights under or to.

"Trademark License" means any agreement, written or oral, providing for the grant of any right to use any Trademark.

"Trademarks" means all statutory and common-law trademarks, trade names, corporate names, company names, business names, fictitious business names, trade styles, service marks, logos and other source or business identifiers, and the goodwill associated therewith, now existing or hereafter adopted or acquired, all registrations and recordings thereof, and all applications to register in connection therewith, under the laws of the United States, any state thereof, Canada, Israel or any other country or any political subdivision thereof, or otherwise, for the full term and all renewals thereof, which are owned by any Grantor or which any Grantor is licensed, authorized or otherwise granted rights under or to.

"Trade Secrets" means any data or information that is not commonly known by or available to the public and which (a) derives economic value, actual or potential, from not being generally known to and not being readily ascertainable by proper means by other Persons who can obtain economic value from its disclosure or use, (b) is the subject of efforts that are reasonable under the circumstances to maintain its secrecy and (c) which are owned by any Grantor or which any Grantor is licensed, authorized or otherwise granted rights under or to.

"UCC" means the Uniform Commercial Code as in effect from time to time in the State of New York except as such term may be used in connection with the perfection of the Collateral and then the applicable jurisdiction with respect to such affected Collateral shall apply.

"Website Agreements" means all agreements between any Grantor and any other Person pursuant to which such Person provides any services relating to the hosting, design, operation, management or maintenance of any Website, including without limitation, all agreements with any Person providing website hosting, database management or maintenance or disaster recovery services to any Grantor and all agreements with any domain name registrar, as all such agreements may be amended, supplemented or otherwise modified from time to time.

"Websites" means all websites that any Grantor shall operate, manage or control through a Domain Name, whether on an exclusive basis or a nonexclusive basis, including, without limitation, all content, elements, data, information, materials, hypertext markup language (HTML), software and code, works of authorship, textual works, visual works, aural works, audiovisual works and functionality embodied in, published or available through each such website and all intellectual property and proprietary rights in each of the foregoing.

"Work" means any work or subject matter that is subject to protection pursuant to Title 17 of the United States Code.

(b) Possession and Transfer of Collateral. ~~Subject to Section 4(j), until~~Until an Event of Default has occurred hereunder, each Grantor shall be entitled to possession or use of the Collateral (other than Collateral required to be delivered to the ~~Lender~~Lenders pursuant to this Section 4). The cancellation or surrender of any promissory note evidencing the Obligations, upon payment or otherwise, shall not affect the right of the~~ Lender~~Lenders to retain the Collateral for any other of the Obligations. No Grantor shall sell, assign (by operation of law or otherwise), license, lease or otherwise dispose of, or grant any option with respect to, any of the Collateral owned by such Grantor, except that each Grantor may sell inventory in the ordinary course of such Grantor's business.

(c) Perfection Filings and Registrations. Each Grantor shall, at the ~~Lender's~~Lenders' request, at any time and from time to time, execute and deliver to the ~~Lender~~Lenders such financing statements, filings, registrations, amendments and other documents and do such acts as the ~~Lender deems~~Lenders deem necessary in order to establish and maintain a valid, attached and perfected security interest in the Collateral in favor of the ~~Lender~~Lenders, for ~~its~~their own benefit and as agent for ~~its~~their affiliates, including ~~(i) with respect to the Borrower,~~ filing ~~a~~ UCC-1 financing ~~statement with the Secretary of State of the State of Delaware, (ii) with respect to the New Guarantor, (x) filing a UCC-1 financing statement with the District of Columbia's Recorder of Deeds and (y)~~statements in the relevant jurisdictions, filing a financing statement under the Personal Property Security Act (Ontario) from time to time in effect in Ontario (the "PPSA") ~~and (iii) with respect to the Israeli Grantor,~~, filing with the United States Patent and Trademark Office (and any successor office and any similar office in any state of the United States or in any other country)~~, this Agreement, the Modification and other~~ or filing in any other relevant jurisdiction such documents for the purpose of perfecting, continuing, enforcing or protecting the security interest granted by the ~~Israeli~~applicable Grantor hereunder. Each Grantor hereby irrevocably authorizes the ~~Lender~~Lenders at any time, and from time to time, to file in any jurisdiction any initial financing statements, registrations or filings, and amendments thereto, without the signature of such Grantor where permitted by law that (A) indicate the Collateral (1) is comprised of all assets of such ~~All Assets~~ Grantor or words of similar effect, regardless of whether any particular asset comprising a part of the Collateral falls within the scope of Article 9 of the UCC, the PPSA or any other applicable statute in effect in any other jurisdiction applicable to such Grantor, or (~~i~~2) as being of an equal or lesser scope or within greater detail as the grant of security interest set forth herein, and (B) contain any other information required by Section 5 of Article 9 of the UCC, the PPSA, or any other applicable statute in effect in any other jurisdiction application to such Grantor. Notwithstanding anything to the contrary herein no Grantor shall be required to seek or deliver deposit account control agreements or their equivalent with respect to deposit accounts maintained outside of the United States~~; provided that no funds held in any deposit account of any Grantor which is both not maintained with Lender and not subject to a deposit account control agreement (or any equivalent instrument required to perfect the Lender's security interest over such deposit account in any jurisdiction in which such deposit account is maintained) shall be counted when calculating the Borrower's compliance with the Minimum Deposit Requirement~~. Each Grantor further ratifies and affirms its authorization for any financing statements, filings, registrations and/or amendments thereto, executed and filed by the ~~Lender~~Lenders in any jurisdiction prior to the date of this Agreement and the Third Modification. In addition, each Grantor shall make appropriate entries on its books and records disclosing the security interests of the ~~Lender~~Lenders, for ~~its~~their own benefit and as agent for ~~its~~their affiliates, in the Collateral owned by such Grantor.

(d) Preservation of the Collateral. The ~~Lender~~Lenders may, but ~~is~~are not required, to take such actions from time to time as the ~~Lender deems~~Lenders deem appropriate to maintain or protect the Collateral. The ~~Lender~~Lenders shall have exercised reasonable care in the custody and preservation of the Collateral if the~~ Lender takes~~Lenders take such action as each Grantor shall reasonably request in writing which is not inconsistent with the ~~Lender's~~Lenders' status as a secured party, but the failure of the ~~Lender~~Lenders to comply with any such request shall not be deemed a failure to exercise reasonable care; provided, however, the ~~Lender's~~Lenders' responsibility for the safekeeping of the Collateral shall (i) be deemed reasonable if such Collateral is accorded treatment substantially equal to that which the ~~Lender accords its~~Lenders accord their own property, and (ii) not extend to matters beyond the control of the ~~Lender~~Lenders, including acts of God, war, insurrection, riot or governmental actions. In addition, any failure of the ~~Lender~~Lenders to preserve or protect any rights with respect to the Collateral against prior or third parties, or to do any act with respect to preservation of the Collateral, not so requested by a Grantor, shall not be deemed a failure to *exercise* reasonable care in the custody or preservation of the Collateral. Each Grantor shall have the sole responsibility for taking such action as may be necessary, from time to time, to preserve all rights of such Grantor and the ~~Lender~~Lenders in the Collateral against prior or third parties. Without limiting the generality of the foregoing, where Collateral consists in whole or in part of securities, each Grantor represents to, and covenants with, the ~~Lender~~Lenders that such Grantor has made arrangements for keeping informed of changes or potential changes affecting the securities (including rights to convert or subscribe, payment of dividends, reorganization or other exchanges, tender offers and voting rights), and such Grantor agrees that the ~~Lender~~Lenders shall have no responsibility or liability for informing such Grantor of any such or other changes or potential changes or for taking any action or omitting to take any action with respect thereto.

(e) Other Actions as to any and all Collateral. Each Grantor further agrees to take any other action reasonably requested by the ~~Lender~~Lenders to ensure the attachment, perfection and priority of, and the ability of the ~~Lender~~Lenders to enforce, the security interest of the ~~Lender~~Lenders, for ~~its~~their own benefit and as agent for ~~its~~their affiliates, in any and all of the Collateral including (a) causing the ~~Lender's name~~Lenders' names to be noted as secured party on any certificate of title for a titled good if such notation is a condition to attachment, perfection or priority of, or ability of the ~~Lender~~Lenders to enforce, the security interest of the ~~Lender~~Lenders, for ~~its~~their own benefit and as agent for ~~its~~their affiliates, in such Collateral, (b) complying with any provision of any statute, regulation or treaty of the United States of America and Canada, as applicable, as to any Collateral if compliance with such provision is a condition to attachment, perfection or priority of, or ability of the ~~Lender~~Lenders to enforce, the security interest of the ~~Lender~~Lenders, for ~~its~~their own benefit and as agent for ~~its~~their affiliates, in such Collateral, (c) obtaining governmental and other third party consents and approvals, including any consent of any licensor, lessor or other Person obligated on Collateral, (d) obtaining waivers from mortgagees and landlords in form and substance satisfactory to the ~~Lender~~Lenders, and ~~(c)~~I taking all actions required by the UCC in effect from time to time or by any other law applicable in any relevant UCC jurisdiction or by any other law (including the PPSA) applicable in Canada. Each Grantor further agrees to indemnify and hold the ~~Lender~~Lenders harmless against claims of any Persons not a party to this Agreement concerning disputes arising over the Collateral.

(f) Warehouseman, Bailee and Landlord Waivers. If any material portion of the Collateral at any time is in the possession of a warehouseman or bailee, the applicable ~~All-Assets~~ Grantor shall promptly notify the ~~Lender~~Lenders thereof, and shall use commercially reasonable efforts to obtain a collateral access agreement upon request of the ~~Lender~~Lenders, including with respect to the location of ~~New Guarantor~~Venus Canada at 235 Yorkland Blvd., Suite 106, Toronto, Ontario M2J4Y8. Notwithstanding anything herein to the contrary, the ~~All-Assets~~ Grantors shall, ~~no later than the date that is ninety (90) days following the date of the Modification~~at the request of the Lenders, cause the landlords of such Grantor's Designated ~~Locations~~Addresses to execute and deliver to the ~~Lender~~Lenders, for ~~its~~their own benefit and as agent for ~~its~~their affiliates, landlord waivers and subordination agreements with respect to the Designated Addresses. For purposes hereof, "Designated Addresses" shall mean (i) with respect to ~~the Original Guarantor~~Venus Concept, 1800 Bering Dr., San Jose CA 95112, and (ii) with respect to the Borrower, 4001 SW 47th Ave., Suite 206, Davie, FL 33314.

(g) Letter-of-Credit Rights. If any ~~All-Assets~~ Grantor at any time is a beneficiary under a letter of credit now or hereafter issued in favor of such ~~All-Assets~~ Grantor, ~~the Borrower~~such Grantor shall promptly notify the ~~Lender~~Lenders thereof and, at the request and option of the ~~Lender~~Lenders, such ~~All-Assets~~ Grantor shall, pursuant to an agreement in form and substance satisfactory to the ~~Lender~~Lenders, either (i) arrange for the issuer and any confirmer of such letter of credit to consent to an assignment to the ~~Lender~~Lenders, for ~~its~~their own benefit and as agent for ~~its~~their affiliates, of the proceeds of any drawing under the letter of credit, or (ii) arrange for the ~~Lender~~Lenders, for ~~its~~their own benefit and as agent for ~~its~~their affiliates, to become the transferee beneficiary of the letter of credit, with the ~~Lender~~Lenders agreeing, in each case, that the proceeds of any drawing under the letter to credit are to be applied as provided in this Agreement.

(h) Commercial Tort Claims. If any ~~All-Assets~~ Grantor shall at any time hold or acquire a Commercial Tort Claim, such ~~All-Assets~~ Grantor shall promptly notify the ~~Lender~~Lenders in writing signed by such ~~All-Assets~~ Grantor of the details thereof and grant to the ~~Lender~~Lenders, for ~~its~~their own benefit and as agent for ~~its~~their affiliates, in such writing a security interest therein and in the proceeds thereof, all upon the terms of this Agreement, in each case in form and substance satisfactory to the ~~Lender~~Lenders, and shall execute any amendments hereto deemed reasonably necessary by the ~~Lender~~Lenders to perfect the security interest of the ~~Lender~~Lenders, for ~~its~~their own benefit and as agent for ~~its~~their affiliates, in such Commercial Tort Claim.

(i) Electronic Chattel Paper and Transferable Records. If any ~~All-Assets~~ Grantor at any time holds or acquires an interest in any electronic chattel paper or any "transferable record", as that term is defined in Section 201 of the federal Electronic Signatures in Global and National Commerce Act, or in Section 16 of the Uniform Electronic Transactions Act as in effect in any relevant jurisdiction, such ~~All-Assets~~ Grantor shall promptly notify the ~~Lender~~Lenders thereof and, at the request of the ~~Lender~~Lenders, shall take such action as the ~~Lender~~Lenders may reasonably request to vest in the ~~Lender~~Lenders control under Section 9-105 of the UCC of such electronic chattel paper or control under Section 201 of the federal Electronic Signatures in Global and National Commerce Act or, as the case may be, Section 16 of the Uniform Electronic Transactions Act, as so in effect in such jurisdiction, of such transferable record. The ~~Lender agrees~~Lenders agree with each ~~All-Assets~~ Grantor that the ~~Lender~~Lenders will arrange, pursuant to procedures satisfactory to the ~~Lender~~Lenders and so long as such procedures will not result in the ~~Lender 's~~Lenders' loss of control, for such ~~All-Assets~~ Grantor to make alterations to the electronic chattel paper or transferable record permitted under Section 9-105 of the UCC or, as the case may be, Section 201 of the federal Electronic Signatures in Global and National Commerce Act or Section 16 of the Uniform Electronic Transactions Act for a party in control to make without loss of control.

(j) ~~(i)~~ Subscription Sales Contracts.

(i) Notwithstanding anything herein to the contrary, including Section 4(b), as additional security for the Obligations, the Borrower assigns to the ~~Lender~~Lenders, for ~~its~~their own benefit and as agent for ~~its~~their affiliates, all of the Borrower's rights under (x) all Eligible Subscription Sales Contracts in effect on the date of the Third Modification upon the execution of the Third Modification without any further action by any person (the "Existing Eligible Subscription Sales Contracts") and (y) Eligible Subscription Sales Contracts entered into on or after the date of the Third Modification designated by Borrower in writing as subject to assignment pursuant to this Section 4(j) (the "Future Eligible Subscription Sales Contracts" and, together with the Existing Eligible Subscription Sales Contracts, the "Assigned Sales Contracts") immediately (and without further action by any person) upon the designation by Borrower of such Future Eligible Subscription Sales Contract as Assigned Sales Contracts pursuant to the terms of this Section 4(j); provided, that if the aggregate original face amount (the "Contract Amount") of all Assigned Sales Contracts assigned to the ~~Lender~~Lenders as of the end of any calendar quarter is less than $12,000,000 (the "Sales Contracts Threshold") (whether as a result of any Subscription Sales Contract ceasing to meet the Eligibility Criteria or otherwise), the Borrower shall promptly thereafter designate additional Eligible Subscription Sales Contracts as assigned to the ~~Lender~~Lenders pursuant to this Section 4(j) until the aggregate Contract Amount of all Assigned Sales Contracts assigned to the ~~Lender~~Lenders hereunder equals or exceeds the Sales Contracts Threshold. Borrower shall ensure that it complies with its obligations hereunder by assigning Eligible Subscription Sales Contracts in the following order: (1) first, Eligible Subscription Sales Contracts entered into on or after January 1, 2023, (2) second, Eligible Subscription Sales Contracts entered into in December 2022, (3) third, Eligible Subscription Sales Contracts entered into in November 2022 and (4) fourth, Eligible Subscription Sales Contracts entered into prior to November 1, 2022 and (5) fifth, Modified Eligible Subscription Sales Contracts. The ~~Lender~~Lenders shall have the right, with prior consultation and written notice to the Borrower, to either adjust the Sales Contracts Threshold or the Minimum Balance solely to the extent necessary (i) to address increases in the interest rate under the Note or (ii) if the ~~Lender has~~Lenders have reasonably determined that collections from the Assigned Sales Contracts do not generate sufficient cash flow to satisfy any monthly interest payment requirements under the Note. The Borrower hereby represents and warrants that (A) there are no restrictions in the Existing Eligible Subscription Sales Contract to the Borrower's assignment of such Existing Eligible Subscription Sales Contract pursuant to the terms hereof and (ii) there are no restrictions in the Existing Eligible Subscription Sales Contract to the ~~Lender's~~Lenders' exercise of remedies set forth in Section 4(j)(v). The Borrower shall ensure that no Future Eligible Subscription Sales Contract includes any restrictions to assignment by the Borrower to the Lender, for its own benefit and as agent of its affiliates, of its rights under such Future Eligible Subscription Sales Contract nor any restrictions to the ~~Lender's~~Lenders' exercise of remedies set forth in Section 4(j)(vi).

(ii) The Borrower shall deliver to the ~~Lender~~Lenders (x) ~~prior to or as~~at the request of the ~~date of the Modification~~Lenders, a list of all Existing Eligible Subscription Sales Contracts which will be Assigned Sales Contracts on the Effective Date (the "Assigned Sales Contract Schedule"), which list shall (A) include the Contract Amount of each such Existing Eligible Subscription Sales Contract and (B) (1) specify which Existing Eligible Subscription Sales Contracts are Modified Eligible Subscription Sales Contracts and (2) include the aggregate amount of payments due under such Modified Eligible Subscription Sales Contracts which are more than ninety (90) days past due (the "Required Schedule Information") and (y) (A) within forty-five (45) days following the end of each quarter or (B) on any date in which the Borrower makes additional assignments of Eligible Subscription Sales Contracts as required pursuant to Section 4(j)(i) hereof or this Section 4(j)(ii), in each case, an updated Assigned Sales Contract Schedule which shall list any Future Eligible Subscription Sales Contract which are Assigned Sales Contracts pursuant to this Section 4(j) and shall include the Required Schedule Information with respect to each such Future Eligible Subscription Sales Contract. The ~~Lender~~Lenders shall have the right, at any time and in its sole discretion, to request, by delivery of written notice to the Borrower (any such notice, a "Replacement Notice"), that any Modified Eligible Subscription Sale Contract listed in an Assigned Sales Contract Schedule be replaced with Eligible Subscription Sales Contracts that are not Modified Eligible Subscription Sales Contracts to the extent available; provided that the ~~Lender~~Lenders shall have a period of thirty (30) days to review the Assigned Sales Contract Schedule delivered by the Borrower ~~pursuant to Section 3(a)(iv) of the Modification~~ and deliver to the Borrower, at ~~Lender's~~the Lenders' sole discretion, a Replacement Notice with respect to any Eligible Subscription Sales Contract listed in such Assigned Sales Contract Schedule. The Borrower shall, no later than five~~(5)~~ Business Days after receipt of a Replacement Notice, solely to the extent Eligible Subscription Sales Contracts that are not Modified Eligible Subscription Sales Contracts exist which have not already been assigned pursuant to the terms hereof, (1) replace the Modified Eligible Subscription Sales Contracts listed in such Replacement Notice with Eligible Subscription Sales Contracts that are not Modified Eligible Subscription Sales Contracts and (2) deliver to the ~~Lender~~Lenders an updated Assigned Sales Contract Schedule. ~~In the event Lender shall have delivered a Replacement Notice to Borrower but there are no Eligible Subsection Sales Contracts that are not Modified Eligible Subscription Sales Contracts which have not already been assigned hereunder available at such time to so replace Modified Eligible Subscription Sales Contracts, the Lender and the Borrower shall amend this Agreement to increase the Minimum Deposit Relationship and/or the Minimum Balance; provided that, if the Lender and the Borrower do not agree on the terms of such amendment during the ten (10) day period following the date on which the Borrower notifies the Lender that there are no Modified Eligible Subscription Sales Contracts to satisfy the applicable Replacement Notice, an Event of Default under Section 8(b) shall occur and the Lender shall be entitled to exercise any remedies available to it under this Agreement (including Section 9), any other Loan Document, and under applicable law.~~ The Borrower shall not be required to deliver updated Assigned Sales Contract Schedules at any time that the Sales Contracts Threshold is satisfied.

(iii) The Borrower shall, no later than forty-five (45) days after the end of each quarter, notify the ~~Lender~~Lenders in writing of the occurrence of any event that results in either (x) an Eligible Subscription Sales Contract ceasing to meet the Eligibility Criteria and (y) the aggregate Contract Amount of all Assigned Sales Contract being less than the Sales ~~Contract~~Contracts Threshold.

(iv) Prior to the occurrence and continuation of an Event of Default and notice from ~~Lender~~Lenders to Borrower that it has elected to exercise remedies in respect of the Assigned Sales Contracts, (i) the Borrower shall continue to collect payments under each Assigned Sales Contract in accordance with the terms of each Assigned Sales Contract (as may be modified in accordance with Section 4(j)(v) hereof) and ~~payments thereunder shall be deposited in the deposit account of the Borrower maintained with the Lender set forth in Schedule A hereto (the "Specified Account") and~~ (ii) all other rights under the Assigned Sales Contracts may be exercised solely by Borrower. ~~Prior to the occurrence and continuation of an Event of Default, the Borrower shall have full access to the Specified Account and all funds therein. In addition to the foregoing, commencing on the date that is 7 Business Days following the Effective Date (as defined in the Modification) the Borrower shall at all times (A) maintain a separate deposit account which shall serve as an interest reserve account (the "Interest Reserve Account") with the Lender and (ii) ensure that the Interest Reserve Account has a balance equal to or greater than $400,000 (or such greater amount agreed to by the Lender and the Borrower pursuant to Section 4(j)(ii)) (the "Minimum Balance"). If Borrower fails to make any interest payment under the Note when due, Lender may, without prior written notice to the Borrower or further authorization from the Borrower, withdraw funds in the Interest Reserve Account to satisfy such interest payment and no default or Event of Default shall occur hereunder so long as the Borrower replenishes the funds in the Interest Reserve Account to the Minimum Balance within five (5) Business Days of Lender's withdrawal as set forth herein. For the avoidance of doubt, amounts on deposit in the Specified Account and the Interest Reserve Account shall be counted for purposes of determining the Borrower's compliance with the Minimum Deposit Relationship requirement set forth in Section 7(a) hereof.~~

(v) The Borrower hereby represents and warrants to the ~~Lender~~Lenders that all customers party to the Existing Eligible Subscription Sales Contracts that will become Assigned Sales Contracts on the Effective Date are required to make payments thereunder into the Specified Account pursuant to the terms thereof~~. The Borrower shall ensure that all Future Existing Eligible Subscription Sales Contracts provide that the customers party thereto must make payments thereunder by wire transfer of immediately available funds to the Specified Account. If any payment is made under an Assigned Sales Contract in a manner other than via wire transfer of immediately available funds to the Specified Account, the Borrower shall hold such payment in escrow for the benefit of the Lender and shall promptly deposit such amounts paid into the Specified Account~~. The Borrower shall not amend, supplement or modify (i) the Underwriting Criteria or (ii) an Eligible Subscription Sales Contract, in each case, in any manner which would have a material and adverse effect on the ~~Lender's~~Lenders' rights and remedies hereunder or on the ability of the Borrower to satisfy the Obligations in full (any such amendment, supplement or modification, a "Material Amendment") without the ~~Lender's~~Lenders' prior written consent. The Borrower acknowledges and agrees that any amendment, waiver or supplement to an Eligible Subscription Sales Contract which (A) except with respect to a Modified Eligible Subscription Sales Contract (as defined below) results in a customer making a payment thereunder on a date which exceeds ninety (90) days from such payment's original due date, (B) ~~provides that the customer can make payments thereunder to an account other than the Specified Account, (C)~~ prohibits the Borrower's assignment of Eligible Subscription Sales Contracts pursuant to the terms of this Section 4(j) or (~~D~~C) reduces the amount which a customer is obligated to pay thereunder, in each case, shall be deemed to be a "Material Amendment" and shall require the ~~Lender's~~Lenders' prior written consent.

(vi) Solely upon the occurrence and during the continuance of an Event of Default hereunder or under any other Main Street Loan Document, Borrower hereby authorizes the ~~Lender~~Lenders to collect any and all amounts owing to the Borrower under the Assigned Sales Contracts; to enforce the Assigned Sales Contracts against the counterparties thereto; to consummate the transactions contemplated by the Assigned Sales Contracts; to bring or defend any suits in connection with the Assigned Sales Contracts, in the Borrower's name or the ~~Lender's~~Lenders' own name; and to perform such other acts in connection with the Assigned Sales Contracts as the Lender, in its sole discretion, may deem proper, including the further assignment or transfer of the Assigned Sales Contracts. Further thereto, the Borrower hereby appoints the ~~Lender~~Lenders as its true and lawful attorney-in-fact, which appointment is hereby coupled with an interest and is therefore irrevocable, with full power of substitution, to, solely upon the occurrence and during the continuance of an Event of Default hereunder or under any Main Street Loan Document, (a) ask, demand, collect, receive, receipt for, sue for, compound and give acquittance for any and all amounts which may be due or become due or payable under the Assigned Sales Contracts, (b) enforce any of the Assigned Sales Contracts, (c) execute any and all requests and notices or other demands for the payment of all or any part of the amounts due under the Assigned Sales Contracts, (d) endorse the name of the Borrower on all commercial paper or other instruments given in payment of all or any part of the Assigned Sales Contracts, and (e) in the sole discretion of the Lender, file any claim or take any other action or proceeding, either in its own name or in the name of the Borrower or otherwise, which the ~~Lender~~Lenders may deem necessary or appropriate to protect and preserve the rights, titles and interests of the ~~Lender~~Lenders hereunder or of the Borrower under the Assigned Sales Contracts, and without limiting the foregoing, solely during the occurrence and during the continuance of an Event of Default, the ~~Lender~~Lenders shall have and is hereby given full power and authority to transfer the Assigned Sales Contracts into the name of the ~~Lender~~Lenders or its nominee and/or to receive or demand all or any part of the amounts due under the Assigned Sales Contracts without prior notice or further consent by the Borrower or the customers party thereto. The ~~Lender agrees~~Lenders agree that it shall not take any actions referenced in this Section 4(j)(vi), otherwise exercise any right under any Assigned Sale Contract or contact any customer under any Assigned Sales Contract unless an Event of Default has occurred and is then continuing and notice from ~~Lender~~the Lenders to Borrower has been delivered that ~~Lender~~the Lenders has elected to exercise remedies in respect of the Assigned Sales Contracts. The remedies available to the ~~Lender~~Lenders under this Section 4(j)(v) are in addition to, and not in substation of, the remedies available to the ~~Lender~~Lenders under any Main Street Loan Document (including Section 9 of the Main Street Loan Agreement), as a secured creditor under the UCC, and under applicable law (including equitable remedies).

(vii) For purposes of this Section 4(j):

A. "Eligible Subscription Sales Contract" means, collectively, any Subscription Sales Contract that satisfies the Eligibility Criteria and any Modified Eligible Subscription Sales Contract.

B. "Eligibility Criteria" shall mean, with respect to each Subscription Sales Contract, that (1) such Subscription Sales Contract was entered into no earlier than January 1, 2022, (2) the customer party to such Subscription Sales Contract is not more than ninety (90) days past-due on any payment due to the Borrower under such Subscription Sales Contract, (3) such Subscription Sales Contract is in effect and a valid and binding obligation of the Borrower and the customer party to such Subscription Sales Contract, (4) the customer party to such Subscription Sales Contract has not filed for bankruptcy or notified the Borrower of its inability to satisfy its payment obligations under such Subscription Sales Contract, (5) neither the Borrower nor the customer party to such Subscription Sales Contract has terminated or taken any material action towards terminating such Subscription Sales Contract and (6) solely with respect to Subscription Sales Contracts executed after January 1, 2023, such Subscription Sales Contract was underwritten in accordance with the Borrower's credit standards as in effect on the date of the Modification, which credit standards have been delivered to, and approved by, the ~~Lender~~Lenders prior to or as of the date of the Modification or as modified in accordance with Section 4(j)(v) (such credit standards, the "Underwriting Criteria").

C. "Modified Eligible Subscription Sales Contract" shall mean any Subscription Sales Contract that satisfies the Eligibility Criteria other than (a) clause (2) thereof; provided that the aggregate Contract Amount of Eligible Subscription Sales Contracts which are Modified Eligible Subscription Sales Contracts pursuant to this clause (a) cannot exceed $3,000,000 at any time; and (b) clause (2) thereof; provided that no more than forty (40) Eligible Subscription Sales Contracts may be Modified Eligible Subscription Sales Contracts pursuant to this clause (b) at any time.

D. "Subscription Sales Contract" means all customer subscription sales contracts entered into by the Borrower and its customers."

~~All capitalized words and phrases used in this Section 4 and not otherwise specifically defined in this Agreement shall have the respective meanings assigned to such terms in the UCC, to the extent the same are used or defined therein.~~

5. WARRANTIES AND REPRESENTATIONS. ~~Borrower and/or Guarantor~~Each Loan Party, as applicable, ~~represent~~represents and ~~warrant~~warrants (which representations and warranties shall be deemed continuing) as follows:

(a) Organization Status. Borrower (i) is duly organized under the laws of the State of Delaware, (ii) is in good standing under the laws of the State of Delaware and Florida (iii) is qualified to do business in the State of Delaware and Florida and (iv) has shares of stock which have been duly and validly issued. Each Guarantor (i) is duly organized under the laws of ~~the State of Delaware~~its applicable jurisdiction of organization, (ii) is in good standing under ~~the laws of the State of Delaware~~its applicable jurisdiction of organization, (iii) is qualified to do business in ~~the State of Delaware~~its applicable jurisdiction of organization, and (iv) has shares of stock which have been duly and validly issued.

(b) Place of Business. The principal place of business, and the location of all Collateral (other than Inventory) and books and records of the Borrower is set forth in the preamble to this Agreement. The Borrower shall promptly notify the ~~Lender~~Lenders of any change in such location. The Borrower will not remove or permit the Collateral to be removed from such location without the prior written consent of the Lender, except for inventory sold in the usual and ordinary course of the Borrower's business.

(c) Compliance with Laws. ~~Borrower and Guarantor~~The Loan Parties are in compliance with all laws, regulations, ordinances and orders of all Governmental Authorities. ~~Borrower and Guarantor are not~~No Loan Party is engaged in any activity that is illegal under federal, state or local law.

(d) Accurate Information. All information now and hereafter furnished to ~~Lender~~the Lenders is and will be true, correct and complete in all material respects. Any such information relating to ~~Borrower's and Guarantor's~~any Loan Party's financial condition has and will accurately reflect such financial condition as of the date(s) thereof, (including all contingent liabilities of every type), and ~~Borrower and Guarantor~~each Loan Party further ~~represent~~represents that its financial condition has not changed materially or adversely since the date(s) of such documents, including Borrower's calculation of EBITDA for fiscal year end ~~2019~~2023.

(e) Authority to Enter into Loan Documents. ~~The Borrower and the Guarantor have~~Each Loan Party has full power and authority to enter into the Loan Documents and consummate the transactions correct.

(f) Validity of Loan Documents. The Loan Documents have been approved by those Persons having proper authority, and are in all respects legal, valid and binding according to their terms.

(g) Conflicting Transactions. The consummation of the transaction hereby contemplated and the performance of the obligations of ~~Borrower and Guarantor~~each Loan Party under and by virtue of the Loan Documents will not result in any breach of, or constitute a default under, any lease, loan or credit agreement, or other instrument to which ~~Borrower or Guarantor~~such Loan Party is a party or by which they may be bound or affected.

(h) Pending Litigation. There are no actions, suits or proceedings pending against ~~Borrower, Guarantor~~any Loan Party or the Collateral, or circumstances which could lead to such action, suits or proceedings against or affecting ~~Borrower, Guarantor~~any Loan Party or the Collateral, or involving the validity or enforceability of any of the Loan Documents, before or by any Governmental Authority, except actions, suits and proceedings which have been specifically disclosed to and approved by ~~Lender~~the Lenders in writing; and ~~Borrower~~no Loan Party is ~~not~~ in default with respect to any order, writ, injunction, decree or demand of any court or any Governmental Authority.

(i) Condition of Collateral. The Collateral is not now damaged or injured as a result of any fire, explosion, accident, flood or other casualty.

(j) Discharge of Liens and Taxes. ~~Borrower and Guarantor are~~Each Loan Party is current (or will be current with any Loan proceeds specified for eligible tax payments) on all federal, state, and local taxes, including but not limited to income taxes, payroll taxes, real estate taxes, and sales taxes. ~~Borrower and Guarantor have~~Each Loan Party has duly filed, paid and/or discharged all other taxes or other claims that may become a lien on any of its property or assets, except to the extent that such items are being appropriately contested in good faith and an adequate reserve for the payment thereof is being maintained.

(k) Sufficiency of Capital. ~~Borrower and Guarantor are not~~No Loan Party is, and after consummation of this Agreement and after giving effect to all indebtedness incurred and liens created by Borrower in connection with the Note and any other Loan Documents, will not be, insolvent within the meaning of 11 U.S.C. § 101, as in effect from time to time.

(l) ERISA. Each employee pension benefit plan, as defined in Employee Retirement Income Security Act of 1974, as amended ("ERISA"), maintained by ~~Borrower or Guarantor~~each Loan Party meets, as of the date hereof, the minimum funding standards of ERISA and all applicable regulations thereto and requirements thereof, and of the Internal Revenue Code of 1986, as amended. No "Prohibited Transaction" or "Reportable Event" (as both terms are defined by ERISA) has occurred with respect to any such plan.

(m) No Default. ~~Borrower and Guarantor are not~~No Loan Party is in default in any material respect under any agreement or instrument to which it is a party or by which it may be bound which would individually or in the aggregate have a material adverse effect on the financial condition or business of ~~Borrower or Guarantor~~any Loan Party.

(n) EBITDA Leverage Condition. Borrower meets the EBITDA leverage condition of the Facility.

~~(o) Eligible Borrower. Borrower represents and warrants to Lender that Borrower is an Eligible Borrower (as that term is defined under the Facility), and that the Borrower:~~

~~(i) is a Business (as defined in the Borrower Certification) that was established prior to March 13, 2020;~~

~~(ii) is not an Ineligible Business, as that term is described under 13 CFR 120.110(b)-(j) and (m)-(s), as modified by regulations implementing the Paycheck Protection Program ("PPP") established by Section 1102 of the CARES Act on or before April 24, 2020;~~

~~(iii) when aggregated with its affiliates (in accordance with the Instructions to the Borrower Certification), either: (i) has 15,000 employees or fewer, or (ii) had 2019 annual revenues of $5,000,000,000.00 or less;~~

~~(iv) is created or organized in the United States or under the laws of the United States and has significant operations in and a majority of its employees based in the United States, consistent with Section 4003(c)(3)(C) of the CARES Act;~~

~~(v) does not and will not also participate in any other Main Street Lending Program loan or the Primary Market Corporate Credit Facility; and~~

~~(vi) has not received specific support pursuant to Subtitle A of Title IV of the CARES Act.~~

(o) ~~(p)~~ Other Indebtedness. Borrower represents and warrants to ~~Lender~~the Lenders that, as of the date hereof, (i) the Borrower has other indebtedness, and (ii) the Borrower has obtained any required consents from the lenders of such other indebtedness to enter into this Loan, or such consents have otherwise been waived or no such consents are required.

6. COVENANTS. ~~Borrower and the Guarantor~~Each Loan Party, as applicable, ~~covenant~~covenants and ~~agree~~agrees with ~~Lender~~the Lenders as follows:

(a) Taxes. ~~Borrower~~Each Loan Party certifies that it has filed or caused to be filed all federal, state and other tax returns which are required to be filed, and have paid or caused to be paid all taxes as shown on said returns or in any manner due to be paid (including, but not limited to, ad valorem and personal property taxes) or on any assessment received by ~~Borrower~~such Loan Party and not being contested in good faith, to the extent that such taxes have become due.

(b) Notice of Litigation. ~~Borrower~~Each Loan Party shall promptly give ~~Lender~~the Lenders written notice of (a) a judgment entered against ~~Borrower~~such Loan Party, or (b) the commencement of any action, suit, claim, counterclaim or proceeding against or investigation of ~~Borrower~~such Loan Party which, if adversely determined, would materially adversely affect the business of ~~Borrower~~such Loan Party, or which questions the validity of this Agreement or the Note, or any other actions or agreements taken or to be made pursuant to any of the foregoing.

(c) Notice of Default. ~~Borrower~~Each Loan Party shall promptly give ~~Lender~~the Lenders written notice of any act of default under any agreement with ~~Lender~~the Lenders or under any other contract to which ~~Borrower~~such Loan Party is a party and of any acceleration of indebtedness caused thereby which would have a ~~materially~~material adverse ~~affect to~~effect on the business of ~~Borrower~~such Loan Party.

(d) Reports. ~~Borrower~~Each Loan Party shall promptly furnish ~~Lender~~the Lenders with copies of all governmental agency, and other special reports pertaining to or affecting ~~Borrower~~such Loan Party, which would materially adversely affect the business of ~~Borrower~~such Loan Party.

(e) Change of Control. ~~Borrower and/or the Guarantor shall not~~No Loan Party shall, nor shall it permit any subsidiary to, directly or indirectly, have a Change of Control without the prior written approval of the ~~Lender~~Lenders, which approval shall not be unreasonably withheld, ~~provided that Lender hereby approves of any Change of Control involving EW Healthcare Partners and its affiliates. Borrower and Guarantor~~conditioned or delayed. Each Loan Party shall at all times comply with the ~~Lender's~~Lenders' standard and customary "know your customer" reviews and clearance in connection with any approved Change of Control.

(f) Ownership of Borrower. ~~Borrower and/or the~~No Loan Party nor any direct and indirect ~~owners of Borrower are not~~owner of any Loan Party is a "Specially Designated ~~Nationals"~~National" as designated by the Office of Foreign Asset Control. No owner of twenty (20%) or more of ~~Borrower~~any Loan Party is (i) incarcerated, on probation or parole; (ii) subject to an indictment, criminal arraignment or any other means of formal criminal charges brought in any jurisdiction: or (iii) convicted of a felony in the last five (5) years.

(g) Change in Fiscal Year. Borrower shall not change its fiscal year without the prior written consent of Lender. Borrower's fiscal year ends on December 31.

(h) No Sale of Assets. ~~Borrower and Guarantor shall not~~No Loan Party shall, nor shall it permit any subsidiary to, during the term of the Loan, transfer any material portion of its respective assets unless such transfer is in the ordinary course of ~~Borrower's or Guarantor's~~such Loan Party's business, for fair market value and such fair market value is given to ~~Borrower or Guarantor~~such Loan Party, in its sole name, and such transfer will not have a material adverse effect on the financial condition of ~~Borrower or Guarantor~~such Loan Party and/or its ability to perform the obligations hereunder, as determined by ~~Lender~~the Lenders in ~~its~~their sole and absolute discretion.

(i) Title to Collateral. ~~Borrower will~~Each Loan Party shall deliver to ~~Lender~~the Lenders, on demand, any contracts, bills of sale, statements, receipted vouchers or agreements under which ~~Borrower~~such Loan Party claims title to any of the Collateral.

(j) Payment of Debts. ~~Borrower~~Each Loan Party shall, and shall cause its subsidiaries to, pay and discharge when due, and before subject to penalty or further charge, and otherwise satisfy before maturity or delinquency, all obligations, debts, taxes, and liabilities of whatever nature or amount, except those which ~~Borrower~~such Loan Party in good faith disputes.

(k) Collection of Insurance Proceeds. ~~Borrower~~Each Loan Party will cooperate with ~~Lender~~the Lenders in obtaining for ~~Lender~~the Lenders the benefits of any insurance or other proceeds lawfully or equitably payable to it in connection with the transaction contemplated hereby and the collection of any indebtedness or obligation of ~~Borrower to Lender~~such Loan Party to the Lenders incurred hereunder.

(l) Further Assurances and Preservation of Security. ~~Borrower will~~Each Loan Party shall, and shall cause its subsidiaries to, do all acts and execute all documents for the better and more effective carrying out of the intent and purposes of this Agreement, as ~~Lender~~the Lenders shall reasonably require from time to time, and will do such other acts necessary or desirable to preserve and protect the Collateral at any time securing or intending to secure the Note, as ~~Lender~~the Lenders may require.

(m) No Assignment. ~~Borrower~~No Loan Party shall ~~not~~ assign this Agreement or any interest therein and any such assignment is void and of no effect. ~~Lender~~The Lenders may assign this Agreement and any other Agreements contemplated hereby, and all of ~~its~~their rights hereunder and thereunder, and all provisions of this Agreement shall continue to apply to the Loan. ~~Lender~~The Lenders also shall have the right to participate the Loan with any other lending institution.

(n) Access to Books and Records. ~~Borrower shall~~Each Loan Party shall, and shall cause its subsidiaries to, allow any Lender, or its agents, after reasonable prior notice and during reasonable normal business hours, to access ~~Borrower's~~such Loan Party's books, records and such other documents, and allow any Lender, at ~~Borrower's~~such Loan Party's expense, to inspect, audit and examine the same and to make extracts therefrom and to make copies thereof.

(o) Business Continuity. ~~Borrower shall~~Each Loan Party shall, and shall cause its subsidiaries to, conduct its business in substantially the same manner and locations as such business is now and has previously been conducted during the term of the Loan.

(p) Insurance.

(A) ~~Borrower shall~~At the request of the Lenders, each Loan Party shall, and shall cause its subsidiaries to obtain, maintain and keep in full force and effect during the term of the Loan adequate insurance coverage, with all premiums paid thereon and without notice or demand, with respect to its properties and business against loss or damage of the kinds and in the amounts customarily insured against by companies of established reputation engaged in the same or similar businesses including, without limitation:

(i) Public liability insurance insuring against all claims for personal or bodily injury, death, or property damage in an amount of not less than $1,000,000.00 single limit coverage, and $2,000,000.00 in the aggregate. Such policy shall include an additional insured endorsement naming the ~~Lender~~Lenders as loss payee; and

(ii) Insurance in such amounts and against such other casualties and contingencies as may from time to time be required by Lender.

(B) All policies of insurance required hereunder shall: (i) be written by carriers which are licensed or authorized to transact business in the State of Florida, and are rated "A" or higher, Class XII or higher, according to the latest published Best's Key Rating Guide and which shall be otherwise acceptable to ~~Lender~~the Lenders in all other respects, (ii) provide that the ~~Lender~~Lenders shall receive thirty (30) days' prior written notice from the insurer before a cancellation, modification, material change or non-renewal of the policy becomes effective, and (iii) be otherwise satisfactory to ~~Lender~~the Lenders.

(C) Borrower shall not, without the prior written consent of ~~Lender~~the Lenders, take out separate insurance concurrent in form or contributing with regard to any insurance coverage required by ~~Lender~~the Lenders.

(D) At all times during the term of the Loan, Borrower shall have delivered to ~~Lender~~the Lenders the original (or a certified copy) of all policies of insurance required hereby, together with receipts or other evidence that the premiums therefor have been paid.

(E) Not less than thirty (30) days prior to the expiration date of any insurance policy, Borrower shall deliver to ~~Lender~~the Lenders the original (or certified copy), or the original certificate, as applicable, of each renewal policy, together with receipts or other evidence that the premiums therefor have been paid.

(F) The delivery of any insurance policy and any renewals thereof, shall constitute an assignment thereof to ~~Lender~~the Lenders, and Borrower hereby grants to ~~Lender~~the Lenders a security interest in all such policies, in all proceeds thereof and in all unearned premiums therefor.

(q) Subordination of Debt. ~~Borrower will~~Each Loan Party shall, and shall cause its subsidiaries to, fully subordinate all of ~~the Borrower's~~such Loan Party's debts owed to third parties, including, without limitation, officers, employees, stockholders, and affiliates, upon terms and conditions acceptable to ~~Lender~~the Lenders, other than Permitted Debt which is not expressly required to be subordinated.

(r) Indemnification. ~~Borrower and Guarantor hereby indemnify and hold~~Each Loan Party hereby indemnifies and holds each Lender, its directors, officers, agents, employees and attorneys harmless from and against any liability, loss, expenses, damage of any nature, and claims, including, without limitation, brokers' claims, arising in connection with the Loan, except for any liabilities, losses, expenses, damages and claims arising out of ~~Lender's~~such Lenders' breach of contract, bad faith, gross negligence or willful misconduct.

(s) Indebtedness. During the term of the Loan, ~~Borrower shall not~~no Loan Party shall, nor shall it permit any subsidiary to, incur, create, assume or permit to exist any indebtedness or liability on account of advances or deposits, any indebtedness or liability for borrowed money, any indebtedness constituting the deferred purchase price of any property or assets, any indebtedness owed under any conditional sale or title retention agreement, contingent obligations pursuant to guaranties, endorsements, letters of credit and other secondary liabilities, or any other indebtedness or liability evidenced by notes, bonds, debentures or similar obligations without the prior written approval of ~~Lender~~the Lenders, except for Permitted Debt.

(t) Liens. ~~Borrower will not~~No Loan Party shall, nor ~~will~~shall it permit any subsidiary to, create, incur, assume or suffer to exist any lien upon any of its property, assets or revenues, whether now owned or hereafter acquired, securing any debt for borrowed money or any obligations evidenced by a bond, debenture, note, loan agreement or other similar instrument, or any guarantee of the foregoing, other than Permitted Liens.

(u) ~~Cancellation or Reduction of Lines of Credit. Borrower will not seek to cancel or reduce any of its committed lines of credit with the Lender or any other lender until (i) the Loan is repaid in full or (ii) neither the SPV nor a Governmental Assignee holds an interest in the Loan in any capacity.~~[Reserved].

(v) Solvency and Bankruptcy. ~~The Borrower~~Each Loan Party has a reasonable basis to believe that~~, as of the date of origination of the Loan, and after giving effect to~~ such Loan~~, the Borrower~~ Party has the ability to meet its financial obligations for at least the next ninety (90) days and does not expect to file for bankruptcy during that time period.

(w) Restricted Payments. No Loan Party shall, nor shall it permit any subsidiary to, make any Restricted Payment.

For the purposes of this Section 6(w), "Restricted Payment" means (a) any dividend or other distribution (whether in cash, securities or other property) with respect to any equity securities of a Loan Party, but excluding any intercompany dividends or distributions made to either the Borrower or Venus Concept from one or more of the other Loan Parties; (b) any purchase, redemption, retirement or acquisition by a Loan Party for value of any equity securities or any distribution of any kind in cash or other property or assets in respect thereof; (c) any payment (whether in cash, securities or other property or assets), including any sinking fund or similar deposit, on account of the purchase, redemption, retirement, acquisition, cancellation or termination of any such equity securities or on account of any return of capital to the equityholders, partners or members (or the equivalent person thereof) of a Loan Party, and (d) any management fees, board fees, director or manager fees or similar fees, but, for the avoidance of doubt, excluding fees paid to officers, directors and employees of the Loan Parties. For the further avoidance of doubt, the transactions contemplated by that certain Exchange Agreement dated as of the date of the Third Modification, made among the parties hereto, do not constitute a Restricted Payment.

(x) [Reserved].

~~(w)~~ Compensation, Stock Repurchase, and Capital Distribution Restrictions~~. The Borrower will follow compensation, stock repurchase, and capital distribution restrictions that apply to direct loan programs under Section 4003(c)(3)(A)(ii) of the CARES Act, including, without limitation:~~

~~(i) Until twelve (12) months after the Loan has been repaid, Borrower shall not buyback stock of equity securities listed on a national securities exchange of Borrower or a parent of Borrower (exceptions for contractual obligations entered in to prior to March 27, 2020);~~

~~(ii) Borrower shall not make dividend payments or capital distributions on common stock of Borrower (except that an S-corporation or other tax-pass-through entity that is a Borrower may make distributions to the extent reasonably required to cover its owners' tax obligations in respect of the entity's earnings); and~~

~~(iii) From the date hereof until twelve (12) months after the Loan has been repaid, Borrower shall comply with the compensation limits set out in Section 4004 of the CARES Act.~~

~~(x) Eligible To Participate in the Facility. The Borrower is eligible to participate in the Facility, including in light of the conflicts of interest prohibition in Section 4019(b) of the CARES Act. In addition, Borrower certifies to Lender that it has not obtained, and will not obtain, (i) another loan under the Facility, (ii) any other Main Street Lending Program loan, or (iii) a Primary Market Corporate Credit Facility.~~

~~(y)~~ Payroll Maintenance and Employee Retention. ~~The Borrower will~~Each Loan Party shall, and shall cause its subsidiaries to, make commercially reasonable efforts to maintain its payroll and retain its employees during the time the Loan is outstanding.

~~(z)~~ Priority of Loan. At the time of origination of the Loan and at all times during the term of the Loan, the Loan shall be senior to, or pari passu with, in terms of priority and security, ~~the Borrower's~~each Loan Party's other loans or debt instruments, other than Mortgage Debt.

(aa) Repayment of Other Indebtedness. ~~Borrower will not~~No Loan Party shall, nor shall it permit any subsidiary to, repay the principal balance of, or pay any interest on, any debt unless the principal or interest payment is mandatory and due, until ~~(i)~~ the Loan is repaid in full~~ or (ii) neither the SPV nor a Governmental Assignee holds an interest in the Loan in any capacity, provided that Borrower may, at the time of origination of the Loan, refinance existing debt owed by the Borrower to a lender that is not the Lender.~~.

With respect to debt that predates the Loan, principal and interest payments are "mandatory and due": (i) on the future date upon which they were scheduled to be paid as of the date of origination of the Loan, or (ii) upon the occurrence of an event that automatically triggers mandatory prepayments under a contract for indebtedness that ~~the Borrower~~such Loan Party executed prior to the date of origination of the Loan, except that any such prepayments triggered by the incurrence of new debt can only be paid (i) if such prepayments are de minimis, or (ii) under the Facility at the time of origination of the Loan.

For the avoidance of doubt, ~~Borrower~~the Loan Parties may continue to pay, and ~~Lender~~the Lenders may request that ~~Borrowers~~the Loan Parties pay, interest or principal payments on outstanding debt on (or after) the payment due date, provided that the payment due date was scheduled prior to the date of origination of the Loan. ~~Borrower~~The Loan Parties may not pay, and ~~Lender~~the Lenders may not request that ~~Borrower~~the Loan Parties pay, interest or principal payments on such debt ahead of schedule during the life of the Loan, unless required by a mandatory prepayment clause as specifically permitted above.

For future debt incurred by the ~~Borrower~~Loan Parties in compliance with the terms and conditions of the Facility, principal and interest payments are "mandatory and due" on their scheduled dates or upon the occurrence of an event that automatically triggers mandatory prepayments.

As to repayment of a loan owed to an owner or to an affiliate of ~~the Borrower~~any Loan Party, such repayment shall be allowed provided that the loan is a bona fide loan and repayment is made when mandatory and due. A loan owed to an owner or to an affiliate of ~~the Borrower~~a Loan Party shall be considered "bona fide" if (i) it is a written instrument with a stated interest rate, a stated maturity date, and terms that are at least as favorable to the ~~Borrower~~applicable Loan Party as market terms for similar loans at the time of origination; (ii) such owner or affiliate of the ~~Borrower~~applicable Loan Party has a reasonable expectation of repayment, including that payments on the loan are not deferred; (iii) the debt is enforceable under state law; and (iv) such owner or affiliate of the ~~Borrower~~applicable Loan Party has remedies upon default (e.g., a security interest or position with respect to other creditors).

~~Borrower~~The Loan Parties hereby acknowledges and agrees that ~~Lender~~the Lenders may require, in ~~its~~their sole and absolute discretion, additional documentation from ~~Borrower~~the Loan Parties relating to any loan owed to an owner or to an affiliate of the ~~Borrower~~Loan Parties, including, without limitation, promissory notes or other evidence of such debt, as well as affidavits or certifications from ~~Borrower~~the Loan Parties, in order to confirm that such loan is bona fide.

(bb) [Reserved].

(cc) [Reserved].

(dd) [Reserved].

~~(bb) Refinancing of Existing Debt. Any existing debt owed by the Borrower to a lender that is not the Lender that is to be refinanced with Loan proceeds shall be repaid in accordance with the terms and conditions set forth in the Borrower Certification, the Facility and the CARES Act, and if such debt is owed to an owner or to an affiliate of the Borrower, then it may only be refinanced with Loan proceeds if it is deemed bona fide, as more particularly described in Section 6(aa) above.~~

~~(cc) Mandatory Prepayment. If, on any date (such date, a "Trigger Date"), the Board of Governors of the Federal Reserve System or a designee thereof has, after consultation with Lender, notified Lender in writing that the Borrower has materially breached, made a material misrepresentation with respect to or otherwise failed to comply with certifications in Section 2 (CARES Act Borrower Eligibility Certifications and Covenants) or Section 3 (FRA and Regulation A Borrower Eligibility Certifications) of the Borrower Certification in any material respect or that any such certification has failed to be true and correct in any material respect, then Lender shall promptly so notify the Borrower and the Borrower shall, no later than two (2) business days after such Trigger Date, prepay the Loan in full, along with any accrued and unpaid interest thereon.~~

~~(dd) Compliance with Borrower Certification, the Facility and the CARES Act. At all times during the term of the Loan, Borrower shall comply with all other covenants, terms and conditions set forth in the Borrower Certification, the Facility and/or the CARES Act.~~

(ee) Cooperation Agreement. In the event any of the documents evidencing and/or securing the Loan between Borrower and ~~Lender~~the Lenders are misstated or inaccurately reflect the agreed upon, true and correct terms and provisions of the Loan and said misstatements or inaccuracies are due to the unilateral mistake on the part of ~~Lender~~the Lenders, mutual mistake on the part of ~~Lender~~the Lenders and/or Borrower, or clerical error, then in such event Borrower shall, upon reasonable request by ~~Lender~~the Lenders, and in order to correct such misstatement or inaccuracy, or to comply with the Facility requirements or in ~~Lender's~~the Lenders' reasonable opinion, more accurately evidence the Loan, execute such new documents or initial such corrected original documents as ~~Lender~~the Lenders may deem reasonably necessary to remedy said inaccuracy or mistake or to comply with the Facility requirements or in ~~Lender's~~the Lenders' reasonable opinion, more accurately evidence the Loan.

(ff) Fees and Expenses. ~~Upon (i) the funding of the Loan, Borrower shall pay to SPV a transaction fee in the amount of $500,000.00 in connection with the Loan, and (ii) the closing of the Loan, Borrower shall pay to Lender an origination fee in the amount of $500,000.00 in connection with the Loan. At Borrower's option, the foregoing fees can be deducted from the Loan proceeds at closing. In addition to the foregoing fees, Borrower agrees~~The Loan Parties agree to pay all ~~other~~ fees and expenses incurred by ~~Lender~~the Lenders in connection with the Loan, as more particularly described in Section 3 above, which shall include, but not be limited to, the legal fees and costs of ~~Lender's~~the Lenders' counsel.

(gg) ~~Facility Commitment Letter. Borrower hereby acknowledges and agrees that Lender shall be under no obligation to close and fund the Loan until the Lender has received a commitment letter (the "Commitment Letter") from SPV that it will purchase a participation interest in the amount of $47,500,000.00 of the aggregate principal amount of the Loan under the Facility in accordance with the terms and guidelines of the Facility.~~ [Reserved].

(hh) Key Person Event. ~~Borrower~~The Loan Parties shall ensure that ~~none of~~ Rajiv De Silva (Chief Executive Officer)~~, Domenic Della Penna (Chief Financial~~ maintains his current position as Chief Executive Officer~~) or Hemanth Varghese (President) voluntarily terminate their employment with Borrower~~ of each of the Loan Parties; provided that no default or Event of Default shall occur ~~as a result of such~~ ~~voluntary termination of~~if Rajiv De Silva voluntarily terminates employment if, (i) the Borrower provides to the ~~Lender~~Lenders written notice thereof no later than the earlier of (A) the effective date of such voluntary termination and (B) twenty-four (24) hours prior to the date in which ~~Borrower~~Venus Concept is required to provide notice of such voluntary termination to its shareholders and (ii) within ninety (90) days following such voluntary termination, such Person is replaced with another individual acceptable to the ~~Lender~~Lenders (evidenced by ~~Lender~~the Lenders providing written notice of such acceptance to the Borrower).

(ii) ~~(ii)~~NASDAQ. ~~Original Guarantor~~Venus Concept shall at all times maintain listed status with NASDAQ.

(jj) Fundamental Changes. No Loan Party shall, nor shall it permit any subsidiary to, dissolve, liquidate, amalgamate or consolidate with or into another person, or dispose of (whether in one transaction or in a series of transactions) all or substantially all of its assets (whether now owned or hereafter acquired) to or in favor of any person (including, in each case, pursuant to a Delaware LLC Division).

(kk) Investments. No Loan Party shall, nor shall it permit any Subsidiary to, make any Investment.

For the purposes of this Section 6(kk):

"Investment" means, as to any person, any direct or indirect acquisition or investment by such Person, whether by means of (a) the purchase or other acquisition of Equity Interests of another Person, (b) a loan, advance or capital contribution to, Guarantee or assumption of debt of, or purchase or other acquisition of any other debt or equity participation or interest in, another Person, including any partnership or joint venture interest in such other Person and any arrangement pursuant to which the investor Guarantees Indebtedness of such other Person, or (c) an Acquisition. For purposes of covenant compliance, the amount of any Investment shall be the amount actually invested, without adjustment for subsequent increases or decreases in the value of such Investment.

"Acquisition" means the acquisition, whether through a single transaction or a series of related transactions, of (a) a majority of the equity interests entitled to vote for the election of directors in another Person (including the purchase of an option, warrant or convertible or similar type security to acquire such a controlling interest at the time it becomes exercisable by the holder thereof), whether by purchase of such equity or other ownership interest or upon the exercise of an option or warrant for, or conversion of securities into, such equity or other ownership interest, or (b) assets of another Person which constitute all or substantially all of the assets of such Person or of a division, line of business or other business unit of such Person.

7. FINANCIAL AND REPORTING REQUIREMENTS.

(a) ~~Depository Relationship~~Liquidity. At all times during the term of the Loan, the Borrower shall maintain ~~with Lender (i) its primary depository account(s), including its primary Operating Account(s), and (ii) its primary Treasury Management Services. As used herein, "Operating Account(s)" shall mean bank accounts that facilitate the collection of sales, including accounts receivable, and the payment of expenses and payroll disbursements; and "Treasury Management Services" shall mean commercial banking platforms that facilitate the origination of wire transfers and ACH transactions, the transfer of funds between accounts, positive pay decisioning, remote capture of check deposits and/or other electronic banking services. In addition, (i) as of October 24, 2023, Borrower shall have a deposit ledger balance with Lender of not less than $3,000,000 and (ii) commencing with the month ending November 30, 2023 the Borrower shall maintain~~ a minimum average daily deposit ledger balance ~~with the Lender together with funds~~ in all ~~other~~ Related Accounts (as defined below) in an amount equal to or greater than $3,000,000 as of the end of each month (the "Minimum ~~Deposit Relationship~~Liquidity Requirement"), to be tested on a monthly basis in accordance with Section 7(a)(ii). The Minimum ~~Deposit Relationship~~Liquidity Requirement may be satisfied by reference to the aggregate funds on deposit at any given time in all accounts of the Loan Parties maintained with ~~Lender plus the aggregate funds on deposit at any given time in all accounts of the Loan Parties maintained with any other~~any bank or financial institution that are subject to a deposit account control agreement (or similar agreement) in favor of ~~Lender~~the Lenders (collectively, the "Related Accounts"). ~~To the extent such Related Accounts are included in the calculation of the Minimum Deposit Relationship, Lender may exercise its right of setoff against any such Related Accounts. Notwithstanding the foregoing, if the Minimum Deposit Relationship is not satisfied in accordance with the foregoing for any test date with respect to any month ending on or prior to March 31, 2024, Borrower shall have until April 30, 2024 (or such longer period as Lender may agree in writing (including by e-mail)) to obtain or provide additional funds such that the aggregate deposit ledger balance of the Loan Parties with the Lender together with funds in all other Related Accounts equals or exceeds $3,000,000 (or such greater amount agreed to by the Lender and the Borrower pursuant to Section 4(j)(ii)) (the "Liquidity Cure") and if Borrower completes such Liquidity Cure no default or Event of Default shall have occurred hereunder with respect to such failure to satisfy the Minimum Deposit Relationship.~~

(b) Borrower's Annual Financial Statements. Within one hundred twenty (120) days after the end of each fiscal year, Borrower shall provide ~~Lender~~the Lenders with an annual financial statement prepared on a consolidated basis in accordance with GAAP, with comparable information for the year to date and the immediately preceding fiscal year, all certified (as to the consolidated financial statements) by a recognized firm of certified public accountants. In addition, as soon as available, but in any event within sixty (60) days after the end of each fiscal year of the Borrower, (i) the Borrower shall deliver to the ~~Lender~~Lenders financial reporting applicable for the Facility, in a form and substance reasonably acceptable to the ~~Lender~~Lenders, setting forth the financial information, and where applicable reasonably detailed calculations of the required data, set forth in Appendix C to the FAQs as at the end of such fiscal year of the Borrower, which financial reporting and calculations, in each case, shall be true and accurate in all material respects and, where applicable, present fairly in all material respects the financial condition of the Borrower for the period covered thereby in accordance with GAAP, consistently applied, and (ii) such supporting documentation as ~~Lender~~the Lenders reasonably ~~requests~~request.

(c) Borrower's Quarterly Financial Reporting Requirements. As soon as available, but in any event within sixty (60) days after the end of each fiscal quarter of the Borrower, (i) the Borrower shall deliver to the ~~Lender~~Lenders financial reporting applicable for the Facility, in a form and substance reasonably acceptable to the ~~Lender~~Lenders, setting forth the financial information, and where applicable reasonably detailed calculations of the required data, set forth in Appendix C to the FAQs as at the end of such fiscal quarter of the Borrower, which financial reporting and calculations, in each case, shall be true and accurate in all material respects and, where applicable, present fairly in all material respects the financial condition of the Borrower for the period covered thereby in accordance with GAAP, consistently applied, and (ii) such supporting documentation as ~~Lender~~the Lenders reasonably ~~requests~~request.

(d) Guarantor's Financial Statements. Within sixty (60) days after the end of each fiscal year, Guarantor shall supply ~~Lender~~Lenders with (i) an annual management-prepared financial statement for the prior fiscal year in form acceptable to ~~Lender~~Lenders in ~~its~~their sole and absolute discretion, and (ii) such supporting documentation as ~~Lender~~the Lenders reasonably ~~requests~~request.

(e) Tax Returns. Within thirty (30) days of filing, ~~Borrower and Guarantor~~the Loan Parties shall supply ~~Lender~~the Lenders with a copy of its respective annual federal income tax returns, including, without limitation, K-1 statements for all Partnerships and Sub Chapter S Corporations, or, if an extension is filed for any tax return, within thirty (30) days after any permitted extension date.

(f) Changes to Financial Reporting Requirements. ~~Lender~~The Lenders may, in ~~its~~their sole and absolute discretion, upon written notice to ~~the Borrower and/or Guarantor~~a Loan Party, do the following: (i) ~~change the financial reporting requirements applicable to the Borrower and/or Guarantor with respect to the Facility in accordance with any changes made to the financial reporting requirements of the Federal Reserve set forth on Appendix C to the FAQs attached hereto as **Exhibit "A"**~~[RESERVED.], (ii) change the frequency of delivery of the financial statements and reports required to be provided to ~~Lender by Borrower and/or Guarantor hereunder~~the Lenders by the Loan Parties, (iii) change the method of preparation for the financial statements required to be provided to ~~Lender by Borrower and/or Guarantor~~the Lenders by the Loan Parties hereunder, or (iv) require ~~Borrower and/or Guarantor~~the Loan Parties to provide additional financial statements, reports, or information regarding the Collateral, or the operation, business affairs or financial condition of ~~Borrower and Guarantor~~the Loan Parties. In the event that ~~Lender~~the Lenders notifies ~~the Borrower and/or Guarantor~~any Loan Party of a change to the financial reporting requirements hereunder, ~~Borrower and Guarantor agree~~each Loan Party agrees (i) to execute any and all documentation required by ~~Lender~~the Lenders to acknowledge such change, and (ii) to comply with ~~Lender's~~the Lenders' request for the revised and/or additional financial reporting requirements.

(g) Form of Financial Statements. The form and content of each financial statement as required above, shall be acceptable to ~~Lender~~the Lenders in ~~its~~their sole discretion, shall be certified by each party to be correct and complete, and shall include a complete description of all contingent liabilities, including, without limitation, all indebtedness guaranteed.

(h) The Borrower shall deliver to the ~~Lender~~Lenders on each Friday a weekly rolling 13-week cash flow report for the immediately succeeding 13-week period in form and detail reasonably satisfactory to the ~~Lender~~Lenders in its sole discretion.

(i) The Borrower shall deliver to the ~~Lender~~Lenders no later than on the 20th day of each calendar month (i) a draft monthly balance sheet and income statement of the Borrower for the immediately preceding 1-month period and (ii) a certificate certifying that the Minimum ~~Deposit Relationship~~Liquidity Requirement has been maintained for such month period, which certificate must include detailed calculations demonstrating compliance with the Minimum ~~Deposit Relationship~~Liquidity Requirement.

(j) The Borrower shall ensure that its operating loss (if any) for the trailing 12-month period ending on the dates set forth in the table below does not exceed the amount set forth next to such date. The Borrower shall, concurrently with the delivery of the financial statements required to be delivered to the ~~Lender~~Lenders pursuant to Section 7(c) hereof, deliver a compliance certificate certifying compliance with the requirements set forth in this Section 7(j) and including reasonably detailed calculations of its operating loss (if any) for such period:

Testing Date	Maximum Operating Loss Amount
~~September 30, 2023~~	~~$34,003,668~~
~~December 31, 2023~~	~~$25,966,955~~
~~March 31, 2024~~	~~$22,048,811~~
June 30, 2024	$19,219,850
September 30, 2024	$15,472,820

~~For case of reference and for the convenience of the parties, Appendix C to the FAQs is attached to this Agreement as **Exhibit "A"** and is incorporated by reference as if fully set forth herein.~~

8. DEFAULT. Upon the occurrence of any of the following events (each an "Event of Default" and collectively, the "Events of Default"), ~~Lender~~the Lenders may at ~~its~~their option exercise any of its remedies set forth herein:

(a) ~~Borrower~~Any Loan Party fails to perform any obligation under the Note when due, whether on the scheduled due date or upon acceleration, maturity or otherwise; or

(b) (i) Any Grantor fails to comply with such Grantor's obligations under Sections 4(a) through 4(i) of this Agreement or the security interest over the Collateral created pursuant to Section 4 hereof ceases to be a valid, binding, first priority, perfected security interest, (ii) any Obligor party to the Third Modification fails to comply with any of such Obligor's obligations under the Third Modification, (iii) the Borrower fails to comply with its obligations under Sections 4(j), 6(hh), 6(ii), 7(a), 7(h), 7(i) or 7(j) beyond any applicable notice and cure period (if any) or (iv) any Loan Party fails to perform any other obligation under any Loan Document to which such Loan party is a party beyond any applicable notice and cure periods; or

(c) ~~Borrower~~Any Loan Party fails to perform any obligations under this Agreement (other than the items set forth in subsections (b) or (d) through (q) below, in each case, for which there will be no grace periods other than as specifically stated therein) and such failure continues for thirty (30) days after written notice thereof shall have been given to ~~Borrower~~such Loan Party, provided that if such breach cannot reasonably be cured within such thirty (30) day period and ~~Borrower~~such Loan Party shall commence to cure such breach with such thirty

(30) day period and thereafter diligently and expeditiously proceeds to cure same, the thirty (30) day period shall be extended for so long as it shall reasonably require ~~Borrower~~such Loan Party in the exercise of its best efforts to cure such breach, it being agreed that no such extension shall be for a period in excess of sixty (60) days after written notice of such breach; or

(d) ~~Borrower and/or Guarantor~~Any Loan Party fails to pay or perform any other obligation, liability or indebtedness to any other party beyond the expiration of any applicable notice and cure period; or

(e) A "Default" or an "Event of Default" (as defined in each respective document) occurs (beyond any applicable notice and cure period) under any of the Loan Documents; or

(f) If any warranty or representation made by ~~Borrower~~any Loan Party in this Agreement or pursuant to the terms hereof shall at any time be false or misleading in any material respect, or if ~~Borrower~~any Loan Party shall fail to keep, observe or perform any of the terms, covenants, representations or warranties contained in this Agreement, the Note or any other document given in connection with the Loan, or is unwilling to meet its obligations thereunder; or

(g) The dissolution of, termination of existence of, loss of good standing status by ~~Borrower~~any Loan Party, its subsidiaries or affiliates, if any, or any party to the Loan Documents; or

(h) Borrower becomes the subject of any bankruptcy or other voluntary or involuntary proceeding, in or out of court, for the adjustment of debtor-creditor relationships, and, in the case of any involuntary proceeding, such proceeding is not discharged within ninety (90) days of the filing thereof; or

(i) Any Guarantor becomes the subject of any bankruptcy or other voluntary or involuntary proceeding, in or out of court, for the adjustment of debtor-creditor relationships, and, in the case of any involuntary proceeding, such proceeding is not discharged within ninety (90) days of the filing thereof; or

(j) The entry of a judgment against ~~Borrower or Guarantor which Lender deems~~any Loan Party which the Lenders deem to be of a material nature, in ~~Lender's~~the Lenders' sole discretion; or

(k) The seizure or forfeiture of, or the issuance of any writ of possession, garnishment or attachment, or any turnover order for any property of ~~Borrower or Guarantor~~any Loan Party; or

(l) A material alteration in the kind or type of ~~Borrower's~~any Loan Party's prospects or business, financial or otherwise, or in the financial condition of ~~the Borrower or Guarantor~~any Loan Party, is made without the prior written consent of Lender; or

(m) (i) ~~Borrower, Guarantor~~Any Loan Party or any subsidiary of ~~Borrower~~a Loan Party shall fail to make any payment when due (whether by scheduled maturity, required prepayment, acceleration, demand, or otherwise) in respect of any Indebtedness (other than the Loan) owing to the ~~Lender~~Lenders or any commonly controlled affiliate of the ~~Lender~~Lenders, in each case beyond the applicable grace period with respect thereto, if any; or (ii) ~~Borrower, Guarantor~~any Loan Party or any subsidiary of ~~Borrower~~a Loan Party shall fail to observe or perform any other agreement or condition relating to any such Indebtedness or contained in any instrument or agreement evidencing, securing or relating thereto, or any other event occurs, the effect of which failure to make a payment, default or other event described in clause (i) or (ii) is to cause such Indebtedness to become due or to be repurchased, prepaid, defeased or redeemed (automatically or otherwise), or an offer to repurchase, prepay, defease or redeem such Indebtedness to be made, prior to its stated maturity; provided that clause (ii) shall not apply to secured Indebtedness that becomes due as a result of the voluntary sale or transfer of the property or assets securing such Indebtedness, if such sale or transfer is permitted hereunder and under the documents providing for such Indebtedness and such Indebtedness is repaid when required under the documents providing for such Indebtedness. As used in this Section 8(m), "Indebtedness" shall mean all debt for borrowed money and any obligations evidenced by a bond, debenture, note, loan agreement or other similar instrument, and any guarantee of any of the foregoing; or

(n) A Change of Control occurs, other than as permitted by Section 6(e) hereof; or

(o) The failure of ~~Borrower or Guarantor~~any Loan Party to timely provide any of the information as required in Section 7 above; or

(p) The failure of the ~~Borrower's~~any Loan Party's business to materially comply with any law or regulation controlling its operation; or

(q) The failure of ~~Borrower~~any Loan Party to comply with the terms and conditions of Section 6(t) through Section 6(dd), or any other terms and conditions of the Borrower Certification, the Facility or the CARES Act.

9. REMEDIES OF LENDER. Upon the happening of an Event of Default, then ~~Lender~~Lenders may, at ~~its~~their option, upon written notice to Borrower:

(a) Commence an appropriate legal or equitable action to enforce performance of this Agreement;

(b) Accelerate the payment of the Note and the Loan, apply all or any portion of any equity funds toward payment of the Loan, and commence appropriate legal and equitable action to collect all such amounts due Lender; or

(c) Exercise any other rights or remedies ~~Lender~~the Lenders may have under the Loan Documents referred to in this Agreement or executed in connection with the Loan or which may be available under applicable law.

(d) Notwithstanding anything herein to the contrary, if an Event of Default under Section 8(b) with respect to any of Sections 4(j), 6(hh), 6(ii), 7(a), 7(h), 7(i) or 7(j) hereof occurs and is continuing, the Deferred Principal Payments shall become due and payable on the later of (i) the original due date of such Deferred Principal Payment and (ii) the date of the occurrence of such Event of Default, without any further action or notice by the Lender. For purposes hereof, "Deferred Principal Payments" shall mean, collectively, (i) the annual payment of principal, inclusive of Capitalized Interest (as defined in the Original Main Street Note), originally due by the Borrower on December 8, 2023 pursuant to Section C of the Original Main Street Note, in an amount equal to fifteen percent (15%) of the outstanding principal balance of the Original Main Street Note (inclusive of Capitalized Interest) as of December 8, 2023 and (ii) a portion of the annual payment of principal, inclusive of Capitalized Interest (as defined in the Original Main Street Note), originally due by the Borrower on December 8, 2024 pursuant to Section C of the Original Main Street Note, in an amount equal to seven and a half percent (7.5%) of the outstanding principal balance of the Original Main Street Note (inclusive of Capitalized Interest) as of December 8, 2024.

10. GENERAL TERMS. The following shall be applicable throughout the period of this Agreement or thereafter as provided herein:

(a) Rights of Third Parties. All conditions of the ~~Lender~~Lenders hereunder are imposed solely and exclusively for the benefit of ~~Lender and its~~the Lenders and their successors and assigns, and no other Person shall have standing to require satisfaction of such conditions or be entitled to assume that ~~Lender~~the Lenders will make advances in the absence of strict compliance with any or all thereof, and no other Person shall, under any circumstances, be deemed to be a beneficiary of this Agreement or the Loan Documents, any provisions of which may be freely waived in whole or in part by the ~~Lender~~Lenders at any time if, in its sole discretion, it deems it desirable to do so.

(b) Borrower is not ~~Lender's~~Lenders' Agent. Nothing in this Agreement, the Note or any other Loan Document shall be construed to make the Borrower the ~~Lender's~~Lenders' agent for any purpose whatsoever, or the Borrower and ~~Lender~~Lenders partners, or joint or co-venturers, and the relationship of the parties shall, at all times, be that of debtor and creditor.

(c) Loan Expense/Enforcement Expense. Borrower agrees to pay to ~~Lender~~the Lenders on demand all reasonable costs and expenses incurred by ~~Lender~~the Lenders in seeking to enforce ~~Lender's~~the Lenders' rights and remedies under this Agreement, including court costs, costs of alternative dispute resolution and reasonable attorneys' fees and costs, whether or not suit is filed or other proceedings are initiated hereon.

(d) Evidence of Satisfaction of Conditions. ~~Lender~~The Lenders shall, at all times, be free independently to establish to ~~its~~their good faith and satisfaction, and in its absolute discretion, the existence or nonexistence of a fact or facts which are disclosed in documents or other evidence required by the terms of this Agreement.

(e) Headings. The headings of the sections, paragraphs and subdivisions of this Agreement are for the convenience of reference only, and shall not limit or otherwise affect any of the terms hereof.

(f) Invalid Provisions to Affect No Others. If performance of any provision hereof or any transaction related hereto is limited by law, then the obligation to be performed shall be reduced accordingly; and if any clause or provision herein contained operates or would prospectively operate to invalidate this Agreement in part, then the invalid part of said clause or provision only shall be held for naught, as though not contained herein, and the remainder of this Agreement shall remain operative and in full force and effect. In addition, if any clause or provision herein contained is deemed to violate the governmental restrictions affecting the Facility, then the portion of such clause that violates the terms of the Facility shall be deemed void ab initio, as though not contained herein, and the remainder of the terms and conditions of this Agreement shall remain operative and in full force and effect.

(g) Application of Interest to Reduce Principal Sums Due. In the event that any charge, interest or late charge is above the maximum rate provided by law, then any excess amount over the lawful rate shall be applied by ~~Lender~~the Lenders to reduce the principal sum of the Loan or any other amounts due ~~Lender~~the Lenders hereunder.

(h) Governing Law. The laws of the State of ~~Florida~~New York shall govern the interpretation and enforcement of this Agreement.

(i) Number and Gender. Whenever the singular or plural number, masculine or feminine or neuter gender is used herein, it shall equally include the others and shall apply jointly and severally.

(j) Prior Agreement. To the extent necessary, this Agreement shall be deemed to be an amendment to any prior loan agreement between Borrower and ~~Lender~~the Lenders, and in the event of a conflict between the terms of this Agreement or any such prior agreement, the terms of this Agreement shall govern.

(k) Waiver. If ~~Lender~~the Lenders shall waive any provisions of the Loan Documents, or shall fail to enforce any of the conditions or provisions of this Agreement, such waiver shall not be deemed to be a continuing waiver and shall never be construed as such; and ~~Lender~~the Lenders shall thereafter have the right to insist upon the enforcement of such conditions or provisions. Furthermore, no provision of this Agreement shall be amended, waived, modified, discharged or terminated, except by instrument in writing signed by the parties hereto.

(l) Notices. All notices from the Loan Parties to the ~~Lender~~Lenders and the ~~Lender~~Lenders to any Loan Party required or permitted by any provision of this Agreement or any other Loan Document (other than an expressly set forth therein) shall be in writing and sent either by (i) electronic mail to the e-mail address set forth below or (ii) registered or certified mail or nationally recognized overnight delivery service and addressed as follows:

TO LENDER:

~~CITY NATIONAL BANK OF FLORIDA~~C/O MADRYN ASSET MANAGEMENT, LP
330 Madison Avenue, 33rd Floor
~~100 S.E. 2nd Street, 13th Floor~~
~~Miami, Florida, 33131~~
New York, NY 10017
Attention: ~~Legal Department~~John Ricciardi
E-mail: ~~assetbasedloanreview@citynational.com~~ jricciardi@madrynlp.com
ard@citynational.com
legaldepartment@citynational.com

TO THE LOAN PARTIES:

VENUS CONCEPT USA, INC.
4001 SW 47th Ave, Suite 206
Davie, Florida, 33314
Attention: Domenic Della Penna
Email:ddellapenna@venusconcept.com

Such addresses may be changed by such notice to the other party. Notice given as hereinabove provided shall be deemed (x) if given pursuant to clause (i) above, received upon the sender's receipt of an acknowledgement from the intended recipient (such as by the "return receipt requested" function, as available, return e-mail or other written acknowledgment) and (y) if given pursuant to clause (ii) above, given on the date of its deposit in the United States Mail and, unless sooner, actually received, shall be deemed received by the party to whom it is addressed on the third calendar day following the date on which said notice is deposited in the mail, or if a courier system is used, on the date of delivery of the notice.

(m) Successors and Assigns. This Agreement shall inure to the benefit of and be binding on the Parties hereto and their heirs, legal representatives, successors and assigns, except that no Loan Party may assign or otherwise transfer any of its rights or obligations hereunder without the prior written consent of the ~~Lender~~Lenders (and any attempted assignment or transfer by such Loan Party without such Lender consent shall be null and void).

(n) USA Patriot Act Notice. ~~Lender~~The Lenders hereby notifies ~~Borrower and Guarantor~~the Loan Parties that pursuant to the requirements of the USA Patriot Act (Title III of Pub. L. 107-56 (signed into law October 26, 2001)) (the "Act"), ~~Lender is~~the Lenders are required to obtain, verify and record information that identifies ~~Borrower and Guarantor~~each Loan Party, which information includes the name and address of ~~Borrower and Guarantor~~each Loan Party and other information that will allow ~~Lender~~the Lenders to identify ~~Borrower and Guarantor~~each Loan Party in accordance with the Act.

(o) Counterparts. Facsimiles and Electronic Signatures. This Agreement may be executed in counterparts. Each executed counterpart of this Agreement will constitute an original document, and all executed counterparts, together, will constitute the same agreement. Any counterpart evidencing signature by one party that is delivered by facsimile by such party to the other party hereto shall be binding on the sending party when such facsimile is sent, and such sending party shall within ten (10) days thereafter deliver to the other parties a hard copy of such executed counterpart containing the original signature of such party or its authorized representative. This Agreement may be executed and delivered by electronic signature, and such electronic signature(s) shall be deemed an original signature for purposes of this Agreement and all matters related thereto, with such electronic signature(s) having the same legal effect as an original signature.

(p) No Marshaling. The ~~Lender~~Lenders shall not be required to marshal any present or future collateral security (including this Agreement and the Collateral) for, or other assurances of payment of, the Obligations or any of them or to resort to such collateral security or other assurances of payment in any particular order. To the extent that it lawfully may, the Borrower hereby agrees that it will not invoke any law relating to the marshaling of collateral which might cause delay in or impede the enforcement of the ~~Lender's~~Lenders' rights under this Agreement or under any other instrument creating or evidencing any of the Obligations or under which any of the Obligations is outstanding or by which any of the Obligations is secured or payment thereof is otherwise assured, and, to the extent that it lawfully may, the Borrower hereby irrevocably waives the benefits of all such laws.

(q) WAIVER OF JURY TRIAL. ~~LENDER, BORROWER~~THE LENDERS AND ~~GUARANTOR~~EACH LOAN PARTY HEREBY KNOWINGLY, VOLUNTARILY, AND INTENTIONALLY WAIVE THE RIGHT ANY MAY HAVE TO A TRIAL BY JURY IN RESPECT OF ANY LITIGATION BASED HEREON, OR ARISING OUT OF, UNDER, OR IN CONNECTION WITH THIS AGREEMENT AND ANY AGREEMENT TO BE CONTEMPLATED TO BE EXECUTED IN CONJUNCTION HEREWITH, OR ANY COURSE OF CONDUCT, COURSE OF DEALING, STATEMENTS (WHETHER VERBAL OR WRITTEN) OR ACTIONS OF ANY PARTY.THIS PROVISION IS A MATERIAL INDUCEMENT FOR ~~LENDER~~THE LENDERS ENTERING INTO THIS AGREEMENT.

(r) Consent to Jurisdiction: Forum. ~~Borrower and Guarantor~~Each Loan Party hereby irrevocably ~~submit~~submits generally and unconditionally for themselves and in respect of their property to the jurisdiction of any state court or any United States federal court sitting in ~~Miami-Dade County, Florida. Borrower and Guarantor~~The City of New York, Borough of Manhattan. Each Loan Party hereby irrevocably ~~waive~~waives, to the fullest extent permitted by law, any objection that ~~Borrower and/or Guarantor~~such Loan Party may now or hereafter have to the laying of venue in any such court and any claim that any such court is an inconvenient forum. ~~Borrower and Guarantor~~Each Loan Party hereby ~~agree~~agrees and ~~consent~~consents that, in addition to any methods of service of process provided for under applicable law, all service of process in any such suit, action or proceeding in any state court or any United States federal court sitting in the state specified in the governing law section of this Loan Agreement may be made by certified or registered mail, return receipt requested, directed to ~~Borrower and/or Guarantor, as applicable,~~such Loan Party at its address for notice set forth in this Loan Agreement, or at a subsequent address of which ~~Lender~~the Lenders received actual notice from ~~Borrower and/or Guarantor, as applicable,~~such Loan Party in accordance with the notice section of this Loan Agreement, and service so made shall be complete five (5) days after the same shall have been so mailed. Nothing herein shall affect the right of ~~Lender~~the Lenders to serve process in any manner permitted by law or limit the right of ~~Lender~~the Lenders to bring proceedings against ~~Borrower and/or Guarantor~~any Loan Party in any other court or jurisdiction.

(s) Appointment of Borrower as Agent. Each of the Guarantors ~~and the Israeli Pledgor~~ (i) hereby duly and irrevocably appoints the Borrower as its respective agent for purpose of receiving any notice (including notices of service of process) sent by the ~~Lender~~Lenders hereunder or under any other Loan Document and (ii) agrees that the failure of the Borrower to give any such notice to the applicable Loan Party shall not (A) constitute a waiver of the applicable Loan Party's obligations under the Loan Documents (including any such notice), (B) constitute an extension of any cure period which commences on the date such notice is sent or delivered, as applicable, or (C) affect or impair the validity of any notice of service of process or of any judgment based thereon. For the avoidance of doubt, any notice sent by the ~~Lender~~Lenders to the Borrower for delivery to another Loan Party shall be deemed as received by the applicable Loan Party once delivered to the Borrower as set forth in Section 10(l) hereof.

[~~CONTINUES ON THE FOLLOWING PAGE~~SIGNATURE PAGES OMITTED]

Exhibit 10.5

Execution Version

AMENDMENT TO
SECURED SUBORDINATED CONVERTIBLE NOTES

This Amendment to Secured Subordinated Convertible Notes (this "Amendment"), dated as of May 24, 2024 (the "Effective Date"), is entered into by and among Venus Concept Inc., a Delaware corporation (the "Company"), Venus Concept USA Inc. ("Venus USA"), Venus Concept Canada Corp. ("Venus Canada"), Venus Concept Ltd. ("Venus Israel" and together with Venus USA and Venus Canada, the "Guarantors"), Madryn Health Partners, LP, a Delaware limited partnership ("Madryn"), Madryn Health Partners (Cayman Master), LP, a Cayman Islands limited partnership ("Madryn Cayman," and together with Madryn, each in their capacity as Holder under the Notes, the "Investors"), and Madryn Health Partners, LP, in its capacity as Collateral Agent under the Guaranty and Security Agreement (the "Collateral Agent", and together with the Company, the Guarantors and the Investors, the "Parties").

WHEREAS, the Parties are party to that certain Exchange Agreement, dated as of October 4, 2023, pursuant to which the Company issued and sold (i) to Madryn a secured subordinated convertible note in the aggregate principal amount of $8,432,946.88 (the "Madryn Note"), and (ii) to Madryn Cayman a secured subordinated convertible note in the aggregate principal amount of $14,358,801.44 (the "Madryn Cayman Note," and together with the Madryn Note, the "Notes").

WHEREAS, each Guarantor is or desires to become, as applicable, a Grantor under that certain Guaranty and Security Agreement, dated as of December 9, 2020 (as amended, modified, restated or supplemented from time to time, the "Guaranty and Security Agreement"), pursuant to which the Grantors from time to time party thereto have granted a security interest to the Collateral Agent as collateral for the obligations of the Company under the Notes;

WHEREAS, each Note may be amended by a written instrument signed by the applicable Parties; and

WHEREAS, the Parties desire to (a) amend certain terms of each Note and (b) reaffirm their obligations under or join, as applicable, the Guaranty and Security Agreement as a Grantor thereunder.

NOW, THEREFORE, in consideration of the premises set forth above and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Parties agree as follows:

1. **Definitions**. Capitalized terms used and not defined in this Amendment have the meanings given to such terms in the Notes or the Guaranty and Security Agreement, as applicable.

2. **Amendments**. The Notes are hereby amended as follows:

(a) Section 6.6 of each Note is hereby amended and restated in its entirety as follows:

6.6 Voluntary Adjustment by Company. Subject to the Rules of the Principal Market or another Eligible Market, the Company may at any time during the term of this Note, with the prior written consent of the Required Holders, increase the then current Conversion Rate to any amount and for any period of time deemed appropriate by the Board of Directors of the Company.

(b) Section 12 of each Note is hereby amended and restated in its entirety as follows:

12. Covenants. Until all of the Notes have been converted, redeemed or otherwise satisfied, in full, in accordance with their terms (excluding contingent and indemnification or contribution obligations), the Company hereby covenants and agrees that:

12.1 Rank. All payments due under this Note shall rank *pari passu* with all Other Notes.

12.2 Maintenance of Existence. The Company shall preserve and maintain its legal existence.

12.3 Maintenance of Listing. The Company shall maintain its Common Stock listing on the Principal Market or another Eligible Market (subject to all cure periods permitted by the Principal Market or such other Eligible Market). The Company shall list any Common Stock issuable upon conversion of this Note on the Principal Market or any other Eligible Market on which the Common Stock is then listed prior to issuance of such Common Stock.

12.4 Change of Control. The Company shall not, nor shall it permit any subsidiary to, directly or indirectly, have a Change of Control without the prior written approval of the Holder, which approval shall not be unreasonably withheld, conditioned or delayed. The Company shall at all times comply with the Holder's standard and customary "know your customer" reviews and clearance in connection with any approved Change of Control.

12.5 No Sale of Assets. The Company shall not, nor shall it permit any subsidiary to, during the term of the Note, transfer any material portion of its respective assets unless such transfer is in the ordinary course of the Company's business, for fair market value and such fair market value is given to the Company, in its sole name, and such transfer will not have a material adverse effect on the financial condition of the Company and/or its ability to perform the obligations hereunder, as determined by the Holder in their sole and absolute discretion.

12.6 Further Assurances and Preservation of Security. The Company shall, and shall cause its subsidiaries to, do all acts and execute all documents for the better and more effective carrying out of the intent and purposes of this Note, as the Holder shall reasonably require from time to time, and will do such other acts necessary or desirable to preserve and protect the Collateral at any time securing or intending to secure the Note, as the Holder may require.

12.7 Subordination of Debt. The Company shall, and shall cause its subsidiaries to, fully subordinate all of the Company's debts owed to third parties, including, without limitation, officers, employees, stockholders, and affiliates, upon terms and conditions acceptable to the Holder, other than the MSPLP Facility and Permitted Debt (as defined in the MSPLP Facility) which is not expressly required to be subordinated.

12.8 Indebtedness. During the term of the Note, the Company shall not, nor shall it permit any subsidiary to, incur, create, assume or permit to exist any indebtedness or liability on account of advances or deposits, any indebtedness or liability for borrowed money, any indebtedness constituting the deferred purchase price of any property or assets, any indebtedness owed under any conditional sale or title retention agreement, contingent obligations pursuant to guaranties, endorsements, letters of credit and other secondary liabilities, or any other indebtedness or liability evidenced by notes, bonds, debentures or similar obligations without the prior written approval of the Holder, except for Permitted Debt (as defined in the MSPLP Facility).

12.9 Liens. The Company shall not, nor shall it permit any subsidiary to, create, incur, assume or suffer to exist any lien upon any of its property, assets or revenues, whether now owned or hereafter acquired, securing any debt for borrowed money or any obligations evidenced by a bond, debenture, note, loan agreement or other similar instrument, or any guarantee of the foregoing, other than Permitted Liens (as defined in the MSPLP Facility).

12.10 Restricted Payments. The Company shall not, nor shall it permit any subsidiary to, make any Restricted Payment.

For the purposes of this Section 12.10, "Restricted Payment" means (a) any dividend or other distribution (whether in cash, securities or other property) with respect to any equity securities of the Company or its subsidiaries, but excluding any intercompany dividends or distributions made to the Company from one or more of its subsidiaries; (b) any purchase, redemption, retirement or acquisition by the Company or its subsidiaries for value of any equity securities or any distribution of any kind in cash or other property or assets in respect thereof; (c) any payment (whether in cash, securities or other property or assets), including any sinking fund or similar deposit, on account of the purchase, redemption, retirement, acquisition, cancellation or termination of any such equity securities or on account of any return of capital to the equityholders, partners or members (or the equivalent person thereof) of the Company or its subsidiaries, and (d) any management fees, board fees, director or manager fees or similar fees, but, for the avoidance of doubt, excluding fees paid to officers, directors and employees of the Company and its subsidiaries. For the further avoidance of doubt, the transactions contemplated by that certain Exchange Agreement dated as of May 24, 2024, made among the parties hereto, do not constitute a Restricted Payment.

12.11 Repayment of Other Indebtedness. The Company shall not, nor shall it permit any subsidiary to, repay the principal balance of, or pay any interest on, any debt (other than the MSPLP Facility) unless the principal or interest payment is mandatory and due, until the Note is repaid in full.

With respect to debt that predates the Note, principal and interest payments are "mandatory and due": (i) on the future date upon which they were scheduled to be paid as of the date of origination of the Note, or (ii) upon the occurrence of an event that automatically triggers mandatory prepayments under a contract for indebtedness that the Company executed prior to the date of origination of the Note, except that any such prepayments triggered by the incurrence of new debt can only be paid (i) if such prepayments are de minimis, or (ii) under the Note at the time of origination of the Note.

For the avoidance of doubt, the Company and its subsidiaries may continue to pay, and the Holder may request that the Company and its subsidiaries pay, interest or principal payments on outstanding debt on (or after) the payment due date, provided that the payment due date was scheduled prior to the date of origination of the Note. The Company and its subsidiaries may not pay, and the Holder may not request that the Company or its subsidiaries pay, interest or principal payments on such debt ahead of schedule during the life of the Note, unless required by a mandatory prepayment clause as specifically permitted above.

For future debt incurred by the Company or its subsidiaries in compliance with the terms and conditions of the Note, principal and interest payments are "mandatory and due" on their scheduled dates or upon the occurrence of an event that automatically triggers mandatory prepayments.

As to repayment of a loan owed to an owner or to an affiliate of the Company or its subsidiaries, such repayment shall be allowed provided that the loan is a bona fide loan and repayment is made when mandatory and due. A loan owed to an owner or to an affiliate of a Company shall be considered "bona fide" if (i) it is a written instrument with a stated interest rate, a stated maturity date, and terms that are at least as favorable to the Company as market terms for similar loans at the time of origination; (ii) such owner or affiliate of the Company has a reasonable expectation of repayment, including that payments on the loan are not deferred; (iii) the debt is enforceable under state law; and (iv) such owner or affiliate of the Company has remedies upon default (e.g., a security interest or position with respect to other creditors).

The Company and its subsidiaries hereby acknowledges and agrees that the Holder may require, in their sole and absolute discretion, additional documentation from the Company relating to any loan owed to an owner or to an affiliate of the Company, including, without limitation, promissory notes or other evidence of such debt, as well as affidavits or certifications from the Company, in order to confirm that such loan is bona fide.

12.12 Fees and Expenses. The Company agrees to pay all other fees and expenses incurred by the Holder in connection with the Note, which shall include, but not be limited to, the legal fees and costs of the Holder's counsel.

12.13 Key Person Event. The Company shall ensure that Rajiv De Silva (Chief Executive Officer) maintains his current position as Chief Executive Officer of the Company; provided that no default or Event of Default shall occur if Rajiv De Silva voluntarily terminates employment if, (i) the Company provides to the Holder written notice thereof no later than the earlier of (A) the effective date of such voluntary termination and (B) twenty-four (24) hours prior to the date in which the Company is required to provide notice of such voluntary termination to its shareholders and (ii) within ninety (90) days following such voluntary termination, such Person is replaced with another individual acceptable to the Holder (evidenced by Holder providing written notice of such acceptance to the Company).

12.14 Fundamental Changes. The Company shall not, nor shall it permit any subsidiary to, dissolve, liquidate, amalgamate or consolidate with or into another person, or dispose of (whether in one transaction or in a series of transactions) all or substantially all of its assets (whether now owned or hereafter acquired) to or in favor of any person (including, in each case, pursuant to a Delaware LLC Division).

12.15 Investments. The Company shall not, nor shall it permit any subsidiary to, make any Investment (as defined in the MSPLP Facility).

3. **Collateral Matters**. As of the Effective Date, each Guarantor hereby irrevocably, absolutely and unconditionally becomes or reaffirms its status as, as applicable, a Grantor under the Guaranty and Security Agreement and agrees to be bound by all terms, conditions, obligations, liabilities and undertakings of each Grantor or to which each Grantor is subject thereunder, including without limitation the grant pursuant to Section 3 of the Guaranty and Security Agreement of a security interest to the Collateral Agent, for the benefit of the Secured Parties, in the property and rights constituting Collateral of such Grantor or in which such Grantor has or may have or acquire an interest or the power to transfer rights therein, whether now owned or existing or hereafter created, acquired or arising and wheresoever located, as security for the payment and performance of the Obligations, all with the same force and effect as if such Guarantor were a signatory to the Guaranty and Security Agreement.

4. **Full Force and Effect**. Except as amended hereby, the Notes shall remain in full force and effect in accordance with the provisions thereof, as in effect on the date hereof.

[Signature Pages Follow]

IN WITNESS WHEREOF, the Parties have caused this Amendment to Secured Subordinated Convertible Notes to be executed to be effective as of the date first written above.

VENUS CONCEPT INC.

By: */s/ Rajiv De Silva*
Name: Rajiv De Silva
Title: Chief Executive Officer

VENUS CONCEPT USA INC., as a Guarantor and Grantor under the Guaranty and Security Agreement

By: */s/ Rajiv De Silva*
Name: Rajiv De Silva
Title: President and Assistant Secretary

VENUS CONCEPT CANADA CORP., as a Guarantor and Grantor under the Guaranty and Security Agreement

By: */s/ Hemanth Varghese*
Name: Hemanth Varghese
Title: President and General Manager

VENUS CONCEPT LTD, as a Guarantor and Grantor under the Guaranty and Security Agreement

By: */s/ Rajiv De Silva*
Name: Rajiv De Silva
Title: Chief Executive Officer

MADRYN HEALTH PARTNERS, LP, as an Investor

By: Madryn Health Advisors, LP, its General Partner

By: Madryn Health Advisors GP, LLC, its General Partner

By: */s/ Avinash Amin*
Name: Avinash Amin
Title: Member

MADRYN HEALTH PARTNERS (CAYMAN MASTER), LP, as an Investor

By: Madryn Health Advisors, LP, its General Partner

By: Madryn Health Advisors GP, LLC, its General Partner

By: */s/ Avinash Amin*
Name: Avinash Amin
Title: Member

MADRYN HEALTH PARTNERS, LP, as Collateral Agent

By: Madryn Health Advisors, LP, its General Partner

By: Madryn Health Advisors GP, LLC, its General Partner

By: */s/ Avinash Amin*
Name: Avinash Amin
Title: Member

Exhibit 10.6

Execution Versions

BRIDGE LOAN AMENDMENT AGREEMENT

THIS BRIDGE LOAN AMENDMENT AGREEMENT (the "Agreement") dated as of May 24, 2024 (the "Effective Date") is entered into among (a) VENUS CONCEPT USA INC., a Delaware corporation (the "Borrower"), (b) VENUS CONCEPT INC., a Delaware corporation (the "Venus Concept"), (c) VENUS CONCEPT CANADA CORP., a corporation incorporated under the laws of the Province of Ontario (the "Venus Canada"), (d) VENUS CONCEPT LTD., a company formed under the Companies Law of Israel "Venus Israel" and, together with Venus Concept and Venus Canada, the "Guarantors"; the Borrower and the Guarantors shall be referred to herein, collectively, as the "Loan Parties"), (e) each lender party hereto (the "Lenders") and (f) MADRYN HEALTH PARTNERS, LP, a Delaware limited partnership, as Administrative Agent (the "Agent").

RECITALS

WHEREAS, the Loan Parties, the Lenders and the Agent entered into that certain Loan and Security Agreement, dated as of April 23, 2024 (as amended, restated, supplemented, waived or otherwise modified from time to time, the "Loan Agreement"), pursuant to which the Lenders agreed to make a term loan to the Borrower in the original principal amount of $2,237,906.85 and one or more delayed draw term loans of up to an additional principal amount of $2,762,093.15, in each case, subject to the terms and conditions of the Loan Agreement;

WHEREAS, the Borrower has requested that the Loan Agreement be amended to provide for certain modifications thereto;

WHEREAS, the Lenders are willing to amend the Loan Agreement, subject to the terms and conditions of this Agreement;

NOW, THEREFORE, in consideration of the premises and the mutual covenants contained herein, and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties hereto agree as follows:

1. Amendment to Loan Agreement. The definition of "Maturity Date" in Section 1.01 of the Loan Agreement is hereby amended by replacing the text "May 26, 2024" with the text "June 7, 2024".

2. Conditions Precedent. This Agreement shall be effective upon the date on which the Lenders shall have received counterparts of this Agreement duly executed by the Borrower, the Guarantors, and the Lenders.

3. Reaffirmation. Each of the Loan Parties acknowledges and reaffirms (a) that it is bound by all of the terms of the Loan Documents to which it is a party and (b) that it is responsible for the observance and full performance of all Obligations, including without limitation, the repayment of the Term Loan. Furthermore, the Loan Parties acknowledge and confirm that by entering into this Agreement, the Lenders do not, except as expressly set forth herein, waive or release any term or condition of the Loan Agreement or any of the other Loans Documents or any of their rights or remedies under such Loan Documents or any applicable law or any of the obligations of the Loan Parties thereunder.

4. Representations and Warranties. Each Loan Party represents and warrants to the Lenders as follows:

(a) As of the Effective Date, no Event of Default has occurred and is continuing.

(b) The representations and warranties of the Borrower and each other Loan Party contained in Section 4 of the Loan Agreement, or which are contained in any document furnished at any time under or in connection therewith, are true and correct in all material respects (and in all respects if any such representation and warranty is already qualified by materiality or reference to material adverse effect) on and as of the Effective Date, except to the extent that such representations and warranties specifically refer to an earlier date, in which case they are true and correct in all material respects (and in all respects if any such representation and warranty is already qualified by materiality or reference to material adverse effect) as of such earlier date.

(c) Each Loan Party has the full power and authority to enter into, execute and deliver this Agreement and perform its obligations hereunder, under the Loan Agreement and under each of the other Loan Documents. The execution, delivery and performance by each Loan Party of this Agreement, and the performance by each Loan Party of the Loan Agreement and each other Loan Document to which it is a party, in each case, are within such person's powers and have been authorized by all necessary corporate action of such person.

(d) This Agreement has been duly executed and delivered by such person and constitutes such person's legal, valid and binding obligations, enforceable in accordance with its terms, except as such enforceability may be subject to (i) bankruptcy, insolvency, reorganization, fraudulent conveyance or transfer, moratorium or similar laws affecting creditors' rights generally and (ii) general principles of equity (regardless of whether such enforceability is considered in a proceeding at law or in equity).

(e) No consent, approval, authorization or order of, or filing, registration or qualification with, any court or governmental authority or third party is required in connection with the execution, delivery or performance by such person of this Agreement.

(f) The execution and delivery of this Agreement does not (i) violate, contravene or conflict with any provision of its organization documents or (ii) materially violate, contravene or conflict with any laws applicable to it or its subsidiaries.

(g) The Loan Parties' obligations are not reduced or modified by this Agreement and are not subject to any offsets, defenses or counterclaims.

5. Release. As a material part of the consideration for the Lenders entering into this Agreement (this Section 5, the "Release Provision"):

(a) Each Loan Party agrees that the Lenders, each of their respective affiliates and each of the foregoing persons' respective officers, managers, members, directors, advisors, sub-advisors, partners, agents and employees, and their respective successors and assigns (hereinafter all of the above collectively referred to as the "Lender Group"), are irrevocably and unconditionally released, discharged and acquitted from any and all actions, causes of action, claims, demands, damages and liabilities of whatever kind or nature, in law or in equity, now known or unknown, suspected or unsuspected to the extent that any of the foregoing arises from any action or failure to act under or otherwise arising in connection with the Loan Agreement or the other Loan Documents on or prior to the date hereof.

(b) Each Loan Party hereby acknowledges, represents and warrants to the Lender Group that:

(i) it has read and understands the effect of the Release Provision. Each Loan Party has had the assistance of independent counsel of its own choice, or has had the opportunity to retain such independent counsel, in reviewing, discussing, and considering all the terms of the Release Provision; and if counsel was retained, counsel for such Loan Party has read and considered the Release Provision and advised such Loan Party with respect to the same. Before execution of this Agreement, each Loan Party has had adequate opportunity to make whatever investigation or inquiry it may deem necessary or desirable in connection with the subject matter of the Release Provision.

(ii) no Loan Party is acting in reliance on any representation, understanding, or agreement not expressly set forth herein. Each Loan Party acknowledges that the Lender Group has not made any representation with respect to the Release Provision except as expressly set forth herein.

(iii) each Loan Party has executed this Agreement and the Release Provision thereof as its free and voluntary act, without any duress, coercion, or undue influence exerted by or on behalf of any person.

(iv) each Loan Party is the sole owner of its respective claims released by the Release Provision, and no Loan Party has heretofore conveyed or assigned any interest in any such claims to any other Person.

(c) The Loan Parties understand that the Release Provision was a material consideration in the agreement of the Lenders to enter into this Agreement. The Release Provision shall be in addition to any right, privileges and immunities granted to the Lenders under the Loan Documents.

6. Miscellaneous.

(a) The Loan Agreement, as modified hereby, and the obligations of the Loan Parties thereunder and under the other Loan Documents, are hereby ratified and confirmed and shall remain in full force and effect according to their terms. This Agreement shall constitute a Loan Document under Loan Agreement.

(b) This Agreement may be executed in any number of counterparts, each of which when so executed and delivered shall be an original, but all of which shall constitute one and the same instrument. Delivery of an executed counterpart of this Agreement by telecopy shall be effective as an original and shall constitute a representation that an executed original shall be delivered.

(c) **THIS AGREEMENT AND THE RIGHTS AND OBLIGATIONS OF THE PARTIES HEREUNDER SHALL BE GOVERNED BY AND CONSTRUED AND INTERPRETED IN ACCORDANCE WITH THE LAWS OF THE STATE OF NEW YORK.**

[Signature pages follow]

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be duly executed as of the date first above written.

VENUS CONCEPT USA INC.**,** as Borrower

By: */s/ Rajiv De Silva*
Name: Rajiv De Silva
Title: President and Assistant Secretary

VENUS CONCEPT INC.**,** as a Guarantor

By: */s/ Rajiv De Silva*
Name: Rajiv De Silva
Title: Chief Executive Officer

VENUS CONCEPT CANADA CORP., as a Guarantor

By: */s/Hemanth Varghese*
Name: Hemanth Varghese
Title: President and General Manager

VENUS CONCEPT LTD, as a Guarantor

By: */s/ Rajiv De Silva*
Name: Rajiv De Silva
Title: Chief Executive Officer

MADRYN HEALTH PARTNERS, LP, as a Lender

By: MADRYN HEALTH ADVISORS, LP, its General Partner

By: MADRYN HEALTH ADVISORS GP, LLC, its General Partner

By: */s/Avinash Amin*
Name: Avinash Amin
Title: Member

MADRYN HEALTH PARTNERS (CAYMAN MASTER), LP, as a Lender

By: MADRYN HEALTH ADVISORS, LP, its General Partner

By: MADRYN HEALTH ADVISORS GP, LLC, its General Partner

By: */s/Avinash Amin*
Name: Avinash Amin
Title: Member

MADRYN HEALTH PARTNERS, LP, as Administrative Agent

By: MADRYN HEALTH ADVISORS, LP, its General Partner

By: MADRYN HEALTH ADVISORS GP, LLC, its General Partner

By: */s/Avinash Amin*
Name: Avinash Amin
Title: Member

Exhibit 99.1

Venus Concept Announces $35 million Debt-to-Equity Exchange Transaction

Substantial Reduction of Existing Debt by Madryn Asset Management to Support Restructuring Efforts and Compliance with NASDAQ Listing Requirements

TORONTO, May 28, 2024 (GLOBE NEWSWIRE) – Venus Concept Inc. ("Venus Concept" or the "Company") (NASDAQ: VERO), a global medical aesthetic technology leader, today announced that, on May 24, 2024, the Company exchanged $35.0 million of its senior debt held by affiliates of Madryn Asset Management, LP ("Madryn") for 576,986 shares of newly-created Series Y preferred stock. Each share of Series Y preferred stock is convertible into common stock on a 1-for-100 basis at the option of the holder at any time, or automatically upon the Company's completion of a $30.0 million common equity raise, subject to certain other conditions.

The debt-to-equity exchange represents a significant reduction in the Company's debt balance, which was $76.7 million as of March 31, 2024. Following the transaction, the Company's debt balance is approximately $45.4 million.

This transaction was structured to enable the Company to regain compliance with Nasdaq's minimum stockholders' equity listing standard. While the Company believes it now has stockholders' equity in excess of the listing standard, the transaction remains subject to review and final determination by Nasdaq.

"Today represents the completion of another significant milestone in our on-going restructuring efforts towards both streamlining the capital structure of the business as well as our plan to achieve compliance with the Nasdaq minimum equity standard," said Rajiv De Silva, Chief Executive Officer of Venus Concept. "We are pleased to have the continued long-term support of Madryn. This transaction further strengthens the financing health of the Company and advances our plan towards achieving cash flow breakeven in 2025 and sustainable, long-term profitability, and we believe it will also allow us to maintain our public listing."

"Our exchange of debt into equity reflects our continued belief in Venus' market leading position in the aesthetics industry," said Avinash Amin, MD, Managing Partner at Madryn Asset Management, LP. "We look forward to working with the Company as it continues to execute on its growth plan."

Cautionary Statement Regarding Forward-Looking Statements

This communication contains "forward-looking statements" statements within the meaning of Section 27A of the Securities Act of 1933, as amended, and Section 21E of the Securities Exchange Act of 1934, as amended. Any statements contained herein that are not of historical facts may be deemed to be forward-looking statements. In some cases, you can identify these statements by words such as such as "anticipates," "believes," "plans," "expects," "projects," "future," "intends," "may," "should," "could," "estimates," "predicts," "potential," and other similar expressions that are predictions of or indicate future events and future trends. These forward-looking statements include, but are not limited to, statements regarding whether the debt-to-equity exchange will serve to bring the Company into compliance with the minimum equity standard. These forward-looking statements are based on current expectations, estimates, and projections about our business and the industry in which we operate, as well as management's beliefs and assumptions, and are not guarantees of future performance or developments and involve known and unknown risks, uncertainties, and other factors that are in some cases beyond our control. As a result, any or all of our forward-looking statements in this communication may turn out to be inaccurate. Factors that could materially affect our business operations and financial performance and condition include, but are not limited to, those risks and uncertainties described under Part I Item 1A—"Risk Factors" in our Annual Report on Form 10-K for the fiscal year ended December 31, 2023 and under Part II Item 1A—"Risk Factors" in our subsequently-filed Quarterly Reports on Form 10-Q. Readers are urged to consider these factors carefully in evaluating the forward-looking statements and are cautioned not to place undue reliance on the forward-looking statements. The forward-looking statements are based on information available to us as of the date of this communication. Unless required by law, we do not intend to publicly update or revise any forward-looking statements to reflect new information or future events or otherwise.

About Venus Concept

Venus Concept is an innovative global medical aesthetic technology leader with a broad product portfolio of minimally invasive and non-invasive medical aesthetic and hair restoration technologies and reaches over 60 countries and 12 direct markets. Venus Concept's product portfolio consists of aesthetic device platforms, including Venus Versa, Venus Versa PRO, Venus Legacy, Venus Velocity, Venus Viva, Venus Glow, Venus Bliss, Venus Bliss MAX, Venus Epileve, Venus Viva MD and AI.ME. Venus Concept's hair restoration systems include NeoGraft® and the ARTAS iX® Robotic Hair Restoration system. Venus Concept has been backed by leading healthcare industry growth equity investors including EW Healthcare Partners (formerly Essex Woodlands), HealthQuest Capital, Longitude Capital Management, Aperture Venture Partners, and Masters Special Situations.

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