
**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): October 2, 2020 (September 30, 2020)

LENSAR, INC.

(Exact name of registrant as specified in its charter)

Delaware
(State or Other Jurisdiction
of Incorporation)

001-039473
(Commission
File Number)

32-0125724
(IRS Employer
Identification Number)

2800 Discovery Drive,
Orlando, Florida 32826
(Address of principal executive offices)

Registrant's telephone number, including area code:
(888) 536-7271

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 registrants under any of the following provisions (see General Instruction A.2. below):

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

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

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

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

Emerging growth company

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

Item 1.01. Entry into a Material Definitive Agreement.

On October 1, 2020 (the “Distribution Date”), PDL BioPharma, Inc. (“PDL”) completed the previously announced separation of LENSAR, Inc. (the “Company”) from PDL (the “Spin-Off”) into a new, independent publicly traded company, through the distribution of all of the outstanding shares of the Company’s common stock, par value \$0.01 per share, (the “Common Stock”) held by PDL on a pro rata basis to PDL’s stockholders of record as of the close of business on September 22, 2020 (the “Record Date”). Each holder of record of PDL’s shares of common stock, par value \$0.01 per share, received 0.075879 shares of the Common Stock for every one share of PDL common stock held at the close of business on the Record Date (the “Distribution”). In lieu of fractional shares of Common Stock, stockholders of PDL will receive cash. PDL distributed 8,667,397 shares of Common Stock in the Distribution, which was effective at 5:00 p.m., Eastern Time, on October 1, 2020 (the “Effective Time”). As a result of the Distribution, the Company is now an independent public company and its common stock is listed under the symbol “LNSR” on the Nasdaq Capital Market (“Nasdaq”).

In connection with the completion of the Spin-Off, the Company entered into several agreements with PDL, each dated September 30, 2020, that, among other things, provide a framework for the Company’s relationship with PDL after the Distribution, including the following (collectively, the “Spin Agreements”):

- Separation and Distribution Agreement;
- Transition Services Agreement; and
- Tax Matters Agreement.

A summary of certain material terms of each of the Spin Agreements can be found in the section entitled “Certain Relationships and Related Person Transactions—Agreements between PDL and LENSAR Relating to the Spin-Off” in the information statement (the “Information Statement”) attached as Exhibit 99.1 to the Company’s Registration Statement on Form 10, initially filed with the Securities and Exchange Commission (the “SEC”) on August 26, 2020, as amended, and declared effective on September 17, 2020 (the “Registration Statement”), and is incorporated herein by reference. In addition, the descriptions of the foregoing agreements are qualified in their entirety by reference to the complete terms and conditions of such agreements filed as Exhibit 2.1, Exhibit 10.1 and Exhibit 10.2 hereto, and incorporated herein by reference.

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

On October 1, 2020, the Company amended and restated its Certificate of Incorporation (the “Amended and Restated Certificate of Incorporation”) and amended and restated its Bylaws (the “Amended and Restated Bylaws”). A description of the material terms of each can be found in the section of the Information Statement entitled “Description of LENSAR Capital Stock,” and is incorporated herein by reference. In addition, the descriptions of the foregoing are qualified in their entirety by reference to the complete terms and conditions of the Company’s Amended and Restated Certificate of Incorporation, which is attached as Exhibit 3.1 hereto, and Amended and Restated Bylaws, which is attached as Exhibit 3.2 hereto, each of which is incorporated herein by reference.

Item 8.01. Other Events.

On October 2, 2020, the Company issued a press release announcing the completion of the Spin-Off. A copy of the press release is attached hereto as Exhibit 99.1 and is incorporated herein by reference.

Item 9.01. Financial Statements and Exhibits.

(d) Exhibits

EXHIBIT INDEX

<u>Exhibit No.</u>	<u>Description</u>
2.1*	Separation and Distribution Agreement, dated as of September 30, 2020, by and between PDL BioPharma, Inc. and LENSAR, Inc.
3.1	Amended and Restated Certificate of Incorporation of LENSAR, Inc.
3.2	Amended and Restated Bylaws of LENSAR, Inc.
10.1*	Transition Services Agreement, dated as of September 30, 2020, by and between PDL BioPharma, Inc. and LENSAR, Inc.
10.2	Tax Matters Agreement, dated as of September 30, 2020, by and between PDL BioPharma, Inc. and LENSAR, Inc.
99.1	LENSAR, Inc. press release, dated October 2, 2020

* Certain schedules and attachments to certain of these exhibits have been omitted pursuant to Regulation S-K, Item 601(a)(5).

SIGNATURE

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

LENSAR, INC.

Date: October 2, 2020

By: /s/ Nicholas Curtis

Name: Nicholas Curtis

Title: Chief Executive Officer

SEPARATION AND DISTRIBUTION AGREEMENT

BY AND BETWEEN

PDL BIOPHARMA, INC.

AND

LENSAR, INC.

DATED AS OF SEPTEMBER 30, 2020

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SEPARATION AND DISTRIBUTION AGREEMENT

This Separation and Distribution Agreement (this "Agreement") is dated as of September 30, 2020, by and between PDL BioPharma, Inc., a Delaware corporation ("PDL"), and LENSAR, Inc, a Delaware corporation and a direct, majority-owned subsidiary of PDL ("LENSAR" and, together with PDL, the "Parties").

RECITALS:

WHEREAS, LENSAR is and prior to the Distribution will be a direct, majority-owned subsidiary of PDL;

WHEREAS, the Board of Directors of PDL has determined that it is in the best interests of PDL and its stockholders to separate the business of LENSAR (the "Spin-Off"), all as more fully described in the Registration Statement, from PDL's other businesses on the terms and conditions set forth herein;

WHEREAS, the Board of Directors of PDL has authorized the distribution to the holders of the issued and outstanding shares of common stock, par value \$0.01 per share, of PDL (the "PDL Common Stock") as of the Distribution Record Date, by means of a dividend, of all of the issued and outstanding shares of common stock, par value \$0.01 per share, of LENSAR (each such share is individually referred to as a "LENSAR Share" and collectively referred to as the "LENSAR Common Stock") held by PDL, respectively, on the basis of (i) 0.075879 LENSAR Shares for every one (1) share of PDL Common Stock (the "Distribution");

WHEREAS, the Boards of Directors of PDL and LENSAR have each determined that the Distribution, the other transactions contemplated by this Agreement and the Ancillary Agreements (the "Transactions") are in the best interests of their respective companies and stockholders, as applicable, and have approved this Agreement and each of the Ancillary Agreements;

WHEREAS, the Parties have determined to set forth the principal corporate and other transactions required to effect the Distribution and to set forth other agreements that will govern certain other matters prior to and following the completion of the Distribution; and

WHEREAS, the Restructuring and Distribution are part of a plan to separate the LENSAR Business from the PDL Business.

NOW, THEREFORE, in consideration of the mutual covenants contained in this Agreement, the Parties hereby agree as follows:

ARTICLE I. DEFINITIONS

Section 1.1 General. Unless otherwise defined herein or unless the context otherwise requires, as used in this Agreement, the following terms shall have the following meanings:

"Action" shall mean any demand, action, suit, arbitration, inquiry, proceeding or investigation, audit, counter suit, hearing or litigation of any nature whether administrative, civil, criminal, regulatory or otherwise, by or before any Governmental Authority or any arbitration or mediation tribunal.

“Affiliate” shall mean, when used with respect to any specified Person, a Person that directly or indirectly controls, is controlled by, or is under common control with such specified Person. As used herein, “control” means the possession, directly or indirectly, of the power to direct or cause the direction of the management and policies of such Person, whether through the ownership of voting securities or other interests, by contract or otherwise. Unless explicitly provided herein to the contrary, for purposes of this Agreement, PDL shall be deemed not to be an Affiliate of LENSAR or any of its Subsidiaries, and LENSAR shall be deemed not to be an Affiliate of PDL or any of its Subsidiaries (other than LENSAR and the LENSAR Subsidiaries).

“Agent” shall have the meaning set forth in Section 3.1(a).

“Agreement” shall have the meaning set forth in the preamble to this Agreement.

“Agreement Disputes” shall have the meaning set forth in Section 8.1.

“Ancillary Agreements” shall mean all of the written agreements, instruments, understandings, assignments or other arrangements (other than this Agreement) entered into by the Parties or by or among any of the PDL Entities, on the one hand, and any of the LENSAR Entities, on the other hand, in connection with the transactions contemplated hereby, including the Transition Services Agreement, the Tax Matters Agreement and the Supply Agreements.

“Applicable Rate” shall mean the rate of interest per annum announced from time to time by the Wall Street Journal as the “prime rate” at large U.S. money center banks.

“Asset” means all rights, properties or other assets, whether real, personal or mixed, tangible or intangible, of any kind, nature and description, whether accrued, contingent or otherwise, and wheresoever situated and whether or not carried or reflected, or required to be carried or reflected, on the books of any Person.

“Business Day” shall mean any day other than a Saturday, Sunday or a day on which commercial banking institutions located in the City of New York are authorized or obligated by Law or executive order to close.

“Claims Made Policies” shall have the meaning set forth in Section 9.2(b).

“Code” means the Internal Revenue Code of 1986, as amended.

“Combined Policies” shall have the meaning set forth in Section 9.2(b).

“Contract” means any written, oral, implied or other contract, agreement, covenant, lease, license, guaranty, indemnity, representation, warranty, assignment, sales order, purchase order, power of attorney, instrument or other commitment, assurance, undertaking or arrangement that is binding on any Person or entity or any part of its property under applicable Law.

“Distribution” shall have the meaning set forth in the recitals to this Agreement.

“Distribution Date” shall mean such date as may be determined by the Board of Directors of PDL or a committee of such Board of Directors, as the date as of which the Distribution shall be effected.

“Distribution Record Date” shall mean such date as may be determined by the Board of Directors of PDL or a committee of such Board of Directors, as the record date for the Distribution.

“Effective Time” shall mean 12:01 a.m., New York City time, on the Distribution Date.

“Entities” shall mean, as applicable, the LENSAR Entities and/or the PDL Entities (each an “Entity”).

“Environmental Laws” shall mean any and all federal, state, local and foreign statutes, laws, regulations, ordinances, rules, principles of common law, judgments, orders, decrees, permits, concessions, grants, franchises, licenses, agreements or other governmental restrictions (including without limitation the Comprehensive Environmental Response, Compensation and Liability Act, 42 U.S.C. 9601, et. seq.), whether now or hereafter in existence, relating to the environment, natural resources, human health or safety, endangered or threatened species of fish, wildlife and plants, or to emissions, discharges or releases of pollutants, contaminants, petroleum or petroleum products, chemicals or industrial, toxic or hazardous substances or wastes into the environment (including without limitation indoor or outdoor air, surface water, groundwater and surface or subsurface soils), or otherwise relating to the manufacture, processing, distribution, use, treatment, storage, disposal, transport or handling of pollutants, contaminants, petroleum or petroleum products, chemicals or industrial, toxic or hazardous substances or wastes or the investigation, cleanup or other remediation thereof.

“Exchange Act” shall mean the Securities Exchange Act of 1934, as amended, together with the rules and regulations promulgated thereunder.

“Governmental Authority” shall mean any federal, state, local, foreign or international court, government, department, commission, board, bureau, agency, official, securities exchange (including the Nasdaq) or other regulatory, administrative or governmental authority.

“Governmental Authorization” shall mean any authorization, approval, consent, license, certificate or permit issued, granted, or otherwise made available under the authority of any court, governmental or regulatory authority, agency, stock exchange, commission or body.

“Indemnifying Party” shall have the meaning set forth in Section 5.3(a).

“Indemnitee” shall have the meaning set forth in Section 5.3(a).

“Information Statement” means the information statement, attached as an exhibit to the Registration Statement, and any related documentation to be provided to holders of PDL Common Stock in connection with the Distribution, including any amendments or supplements thereto.

“Insurance Policy” means any insurance policies and insurance Contracts, including, without limitation, general liability, property and casualty, workers’ compensation, automobile, marine, directors & officers liability, errors and omissions, employee dishonesty and fiduciary liability policies, whether, in each case, in the nature of primary, excess, umbrella or self-insurance coverage, together with all rights, benefits and privileges thereunder.

“JAMS” shall have the meaning set forth in Section 8.3.

“JAMS Rules” shall have the meaning set forth in Section 8.3.

“Joint Action” shall mean any current or future Action with respect to which it is unclear at the onset of such Action whether Liabilities will arise primarily in connection with the LENSAR Business or the PDL Business.

“Law” shall mean all laws, statutes and ordinances and all regulations, rules and other pronouncements of Governmental Authorities having the effect of law of the United States of America, any foreign country, or any domestic or foreign state, province, commonwealth, city, country, municipality, territory, protectorate, possession or similar instrumentality, or any Governmental Authority thereof.

“LENSAR” shall have the meaning set forth in the preamble to this Agreement.

“LENSAR Action” shall mean any current or future Action relating primarily to the LENSAR Business in which one or more PDL Entities is a defendant or the party against whom a claim or investigation is directed, but excluding any Joint Action.

“LENSAR Assets” shall mean (a) all Assets owned by the LENSAR Entities as of the Distribution Date, and (b) all Assets owned by the PDL Entities that are used primarily in, or that primarily relate to, the LENSAR Business.

“LENSAR Business” shall mean (a) the medical technology business conducted by the LENSAR Entities focused on the design, development and commercialization of technologies for the treatment of cataracts and other ophthalmology conditions and (b) any other ophthalmology business (other than the PDL Business) directly conducted by any LENSAR Entity as of or prior to the date of this Agreement.

“LENSAR Common Stock” shall have the meaning set forth in the recitals to this Agreement.

“LENSAR Entities” means LENSAR and each LENSAR Subsidiary (each, a “LENSAR Entity”).

“LENSAR Indemnitees” shall mean:

(a) LENSAR and each Affiliate thereof after giving effect to the Distribution; and

(b) each of the respective Representatives of any of the entities described in the immediately preceding clause (a) and each of the heirs, executors, successors and assigns of any of such Representatives, except in the case of clauses (a) and (b), the PDL Indemnitees; provided, however, that a Person who was a Representative of LENSAR or an Affiliate thereof may be a LENSAR Indemnitee in that capacity notwithstanding that such Person may also be a PDL Indemnitee.

“LENSAR Liabilities” shall mean:

(a) any and all Liabilities that are expressly contemplated by this Agreement or any Ancillary Agreement (or the schedules hereto or thereto) as Liabilities to be assumed by LENSAR or any LENSAR Entity, and all Liabilities of any LENSAR Entity under this Agreement or any of the Ancillary Agreements; and

(b) all Liabilities, if and to the extent relating to, arising out of or resulting from:

(i) the ownership or operation of the LENSAR Business (including any discontinued business or any business which has been sold or transferred), as conducted at any time prior to, on or after the Distribution Date; or

(ii) the ownership or operation of any business conducted by LENSAR or any LENSAR Subsidiary at any time prior to, on or after the Distribution Date.

(c) Notwithstanding the foregoing, the LENSAR Liabilities shall not include:

(i) any Liabilities that are expressly contemplated by this Agreement or any Ancillary Agreement (or the schedules hereto or thereto) as Liabilities of PDL.

“LENSAR Marks” shall include all names, logos or trademarks of LENSAR or its Affiliates, all intellectual property rights therein and all trademarks and logos comprised of or derivative of any of the foregoing.

“LENSAR Share” shall have the meaning set forth in the recitals to this Agreement.

“LENSAR Specific Policies” shall have the meaning set forth in Section 9.1.

“LENSAR Subsidiaries” shall mean (a) each of the Persons listed on Annex 1.1(b)(i) hereto, (b) except as otherwise set forth on Annex 1.1(b)(i), any other Person that was owned, directly or indirectly (in whole or in part) by any of the Persons listed on Annex 1.1(b)(i) hereto prior to the Distribution and (c) any other entity which becomes a Subsidiary of LENSAR after the Effective Time.

“Liabilities” shall mean any and all debts, liabilities, obligations, responsibilities, Losses, damages (whether compensatory, punitive or treble), fines, penalties and sanctions, absolute or contingent, matured or unmatured, liquidated or unliquidated, foreseen or unforeseen, joint, several or individual, asserted or unasserted, accrued or unaccrued, known or unknown, whenever arising, including without limitation those arising under or in connection with any Law (including any Environmental Law), Action, threatened Action, order or consent decree of any Governmental Authority or any award of any arbitration tribunal, and those arising under any

contract, guarantee, commitment or undertaking, whether sought to be imposed by a Governmental Authority, private party, or party to this Agreement, whether based in contract, tort, implied or express warranty, strict liability, criminal or civil statute, or otherwise, and including any costs, expenses, interest, attorneys' fees, disbursement and expense of counsel, expert and consulting fees and costs related thereto or to the investigation or defense thereof, in each case other than Taxes.

"Litigation Expenses" shall have the meaning set forth in Section 6.1(f)(iii).

"Losses" shall mean all losses, damages, claims, demands, judgments or settlements of any nature or kind, known or unknown, fixed, accrued, absolute or contingent, liquidated or unliquidated, including all reasonable costs and expenses (legal, accounting or otherwise as such costs are incurred) relating thereto, suffered by an Indemnitee, other than Taxes.

"Occurrence Based Policies" shall have the meaning set forth in Section 9.2(a).

"Nasdaq" shall mean the Nasdaq Capital Market.

"Parties" shall have the meaning set forth in the preamble to this Agreement.

"PDL" shall have the meaning set forth in the preamble to this Agreement.

"PDL Action" shall mean any current or future Action relating primarily to the PDL Business in which one or more LENSAR Entities is a defendant or the party against whom any claim or investigation is directed, but excluding any Joint Action.

"PDL Asset" shall mean (a) all Assets owned by the PDL Entities and (b) all licenses, permits and authorizations, other than those related to the LENSAR Business in each of (a) and (b).

"PDL Business" shall mean the business conducted by the PDL Entities, other than the LENSAR Business, directly conducted by any PDL Entity as of or prior to the date of this Agreement.

"PDL Common Stock" shall have the meaning set forth in the recitals to this Agreement.

"PDL Entities" means PDL and each PDL Subsidiary (each, an "PDL Entity").

"PDL Indemnitees" shall mean:

(a) PDL and each Affiliate thereof after giving effect to the Distribution; and

(b) each of the respective Representatives of any of the entities described in the immediately preceding clause (a) and each of the heirs, executors, successors and assigns of any of such Representatives, except in the case of clauses (a) and (b), the LENSAR Indemnitees; provided, however, that a Person who was a Representative of PDL or an Affiliate thereof may be a PDL Indemnitee in that capacity notwithstanding that such Person may also be a LENSAR Indemnitee.

“PDL Liabilities” shall mean:

(a) any and all Liabilities that are expressly contemplated by this Agreement or any Ancillary Agreement (or the schedules hereto or thereto) as Liabilities to be assumed by PDL and all Liabilities of any of the PDL Entities under this Agreement or any of the Ancillary Agreements; and

(b) all Liabilities (other than Liabilities that are LENSAR Liabilities), if and to the extent relating to, arising out of or resulting from:

(i) the ownership or operation of the PDL Business (including any discontinued business or any business which has been sold or transferred (for the avoidance of doubt, other than the LENSAR Business)) as conducted at any time prior to, on or after the Distribution Date; or

(ii) the ownership or operation of any business conducted by PDL or any PDL Subsidiary at any time prior to, on or after the Distribution Date.

(c) Notwithstanding the foregoing, the PDL Liabilities shall not include:

(i) any Liabilities that are expressly contemplated by this Agreement or any Ancillary Agreement (or the schedules hereto or thereto) as Liabilities of LENSAR or any LENSAR Entity (including, for the avoidance of doubt, LENSAR Liabilities).

“PDL Marks” shall include all names, logos or trademarks of PDL or its Affiliates (other than LENSAR), all intellectual property rights therein and all trademarks and logos comprised of or derivative of any of the foregoing.

“PDL Retained Assets” shall mean (a) all Assets which are held at the Effective Time by PDL or any of the PDL Subsidiaries, other than any LENSAR Assets and (b) all Assets owned by the LENSAR Entities that are used primarily in, or that primarily relate to, the PDL Business.

“PDL Subsidiaries” shall mean (a) each of the Persons listed on Annex 1.1(a)(i) hereto, (b) except as otherwise set forth on Annex 1.1(a)(i), any other Person (other than any LENSAR Subsidiary) that is owned, directly or indirectly (in whole or in part), by any of the Persons listed on Annex 1.1(a)(i) hereto prior to the Distribution and (c) any other entity which becomes a Subsidiary of PDL after the Effective Time.

“Person” shall mean any natural person, corporation, business trust, limited liability company, joint venture, association, company, partnership or government, or any agency or political subdivision thereof.

“Pre-Distribution Claim” shall have the meaning set forth in Section 9.4(a).

“Records” shall have the meaning set forth in Section 7.1(a).

“Registration Statement” shall mean the registration statement on Form 10 filed by LENSAR with the SEC to effect the registration of the LENSAR Shares pursuant to the Exchange Act.

“Representative” shall mean, with respect to any Person, any of such Person’s directors, officers, employees, agents, consultants, advisors, accountants, attorneys and representatives.

“Restructuring” shall have the meaning set forth in Section 2.1(a).

“Restructuring Plan” shall mean the Plan of Restructuring attached hereto as Schedule 1.1.

“SEC” means the United States Securities and Exchange Commission.

“Spin-Off” shall have the meaning set forth in the recitals to this Agreement.

“Subsidiary” shall mean with respect to any specified Person, any corporation or other legal entity of which such Person or any of its Subsidiaries controls or owns, directly or indirectly, 50% or more of the stock or other equity interests entitled to vote on the election of members to the board of directors or similar governing body or, in the case of a Person with no governing body, 50% or more of the equity or voting interests.

“Tax” shall have the meaning set forth in the Tax Matters Agreement.

“Tax Authority” shall have the meaning set forth in the Tax Matters Agreement.

“Tax Matters Agreement” shall mean the Tax Matters Agreement by and between PDL and LENSAR, which agreement shall be entered into prior to or on the Distribution Date, as may be amended from time to time.

“Third-Party” shall mean any Person who is not a Party to this Agreement.

“Third-Party Claim” shall have the meaning set forth in Section 5.3(a).

“Transactions” shall have the meaning set forth in the recitals to this Agreement.

“Transition Services Agreement” shall mean the Transition Services Agreement by and between PDL and LENSAR, which agreement shall be entered into prior to or on the Distribution Date.

Section 1.2 Reference; Interpretation. References in this Agreement to any gender include references to all genders, and references to the singular include references to the plural and vice versa. The words “include,” “includes” and “including” when used in this Agreement shall be deemed to be followed by the phrase “without limitation.” Unless the context otherwise requires, references in this Agreement to Articles, Sections and Schedules shall be deemed to be references to Articles and Sections of, and Schedules to, this Agreement. Unless the context otherwise requires, the words “hereof,” “hereby” and “herein” and words of similar meaning when used in this Agreement refer to this Agreement in its entirety and not to any particular Article, Section or provision of this Agreement. Neither this Agreement nor any Ancillary Agreement shall be construed against either Party as the principal draftsman hereof or thereof.

Section 1.3 Tax Matters. Notwithstanding any other provision of this Agreement (other than Section 3.1(c), Section 3.1(d) and Section 5.3(i)), the Tax Matters Agreement shall exclusively govern all matters related to Taxes (including allocations thereof) addressed therein.

ARTICLE II. THE SEPARATION

Section 2.1 Restructuring.

(a) The Parties have taken or will take, and have caused or will cause their respective Subsidiaries to take, all actions that are necessary or appropriate to implement and accomplish the transactions contemplated by each of the steps set forth in the Restructuring Plan (collectively, the "Restructuring"); provided, however, that all of such steps shall be completed by no later than the Distribution.

Section 2.2 Transfer of LENSAR Assets and LENSAR Business; Assumption of LENSAR Liabilities. On the terms and subject to the conditions of this Agreement, and in furtherance of the Restructuring and the Spin-Off:

(a) PDL, by no later than the Effective Time, shall cause all of its (or its Subsidiaries') rights, title and interest in and to all of the LENSAR Assets and LENSAR Business to be contributed, assigned, transferred, conveyed and delivered, directly or indirectly, to LENSAR, and LENSAR agrees to accept or cause to be accepted all such rights, title and interest in and to all the LENSAR Assets and LENSAR Business. EXCEPT AS EXPRESSLY SET FORTH IN THIS AGREEMENT OR ANY ANCILLARY AGREEMENT, ALL ASSETS TRANSFERRED PURSUANT TO THIS AGREEMENT OR ANY ANCILLARY AGREEMENT ARE BEING TRANSFERRED AS IS, WHERE IS, WITH ALL FAULTS.

(b) PDL, by no later than the Effective Time, shall cause all of the LENSAR Liabilities to be assigned, directly or indirectly, to LENSAR, and LENSAR agrees to accept, assume, perform, discharge and fulfill all of the LENSAR Liabilities in accordance with their respective terms.

(c) LENSAR, by no later than the Effective Time, shall cause all of its rights, title and interest in and to any Retained Assets to be distributed, assigned, transferred, conveyed and delivered, directly or indirectly, to PDL (or its Subsidiaries), and PDL agrees to accept or cause to be accepted all such rights, title and interest in and to such Retained Assets. EXCEPT AS EXPRESSLY SET FORTH IN THIS AGREEMENT OR ANY ANCILLARY AGREEMENT, ALL ASSETS TRANSFERRED PURSUANT TO THIS AGREEMENT OR ANY ANCILLARY AGREEMENT ARE BEING TRANSFERRED AS IS, WHERE IS, WITH ALL FAULTS.

(d) LENSAR, by no later than the Effective Time, shall cause any PDL Liabilities it holds to be assigned, directly or indirectly, to PDL, and PDL agrees to accept, assume, perform, discharge and fulfill all of such PDL Liabilities in accordance with their respective terms.

(e) Upon completion of the transactions contemplated by Sections 2.1, 2.2(a), 2.2(b), 2.2(c) and 2.2(d) above: (i) LENSAR will own, directly or indirectly, the LENSAR Business and the LENSAR Assets and be subject to the LENSAR Liabilities; and (ii) PDL will continue to own, directly or indirectly, the PDL Business and the PDL Retained Assets and continue to be subject to the PDL Liabilities.

Section 2.3 Third-Party Consents and Government Approvals.

(a) To the extent that either the Distribution or any step in the Restructuring Plan requires a consent of any third party or a Governmental Authorization, the Parties will use commercially reasonable efforts to obtain each such consent and Governmental Authorization at or prior to the time such consent or Governmental Authorization is required in order to lawfully effect the Distribution and each step in the Restructuring Plan.

(b) If any Asset may not be transferred by reason of the requirement to obtain the consent of any third party or a Governmental Authorization and such consent has not been obtained by the Distribution Date, then (unless otherwise expressly agreed by PDL and LENSAR) such Asset shall not be transferred until such consent has been obtained. Subject to reimbursement from the other Party of all reasonable costs and expenses incurred in connection with such actions, PDL and LENSAR, as the case may be, shall (i) use commercially reasonable efforts to provide or cause the owner of such Asset to use commercially reasonable efforts to provide to the other Party (or appropriate Entity affiliated with the other Party) all the rights and benefits under such Asset, (ii) cause such owner to enforce such Asset for the benefit of such other Party (or for the benefit of the Entity affiliated with the other Party) and (iii) assume or cause the appropriate Entity affiliated with it to assume all obligations of such Asset, in each case to the extent that such action does not cause a breach or default under such Asset. Both Parties shall otherwise cooperate and use commercially reasonable efforts to provide the economic and operational equivalent of an assignment or transfer of the Asset as of the Distribution Date.

(c) From and after the Distribution Date, each Party shall promptly transfer or cause the Entity(ies) affiliated with it to promptly transfer to the other Party or the appropriate Entity(ies) affiliated with the other Party, from time to time, any property received that is an Asset of the other Party or of any Entity affiliated with the other Party. Without limiting the foregoing, funds received by a Party or any Entity affiliated with such Party upon the payment of accounts receivable that belong to the other Party or any Entity affiliated with the other party, shall be transferred to the other Party (or Entity affiliated with the other Party) promptly within five business days.

Section 2.4 Further Actions. From and after the Distribution, upon the reasonable request of a Party hereto, the other Party hereto will promptly take, or cause its Subsidiaries to promptly take, all commercially reasonable actions necessary or appropriate to fully accomplish the Restructuring and to give effect to the transactions provided for in this Agreement, including each step in the Restructuring Plan, in accordance with the purposes hereof.

Section 2.5 Restructuring Documents. All documents and instruments used to effect the Restructuring and otherwise to comply with this Agreement shall be in form satisfactory to PDL and LENSAR.

Section 2.6 Certain Licenses and Permits.

(a) On or prior to the Distribution Date or as soon as reasonably practicable thereafter and except as set forth on Schedule 2.6(a), PDL shall use its commercially reasonable efforts to transfer or cause to be transferred any transferable licenses, permits and authorizations issued by any Governmental Authority which relate primarily to the LENSAR Business but which are held in the name of any PDL Entity, or in the name of any employee, officer, director, stockholder or agent of any such PDL Entity, or otherwise, on behalf of any LENSAR Entity, to the appropriate LENSAR Entity.

(b) On or prior to the Distribution Date or as soon as reasonably practicable thereafter, LENSAR shall use its commercially reasonable efforts to transfer or cause to be transferred any transferable licenses, permits and authorizations issued by any Governmental Authority which relate primarily to the PDL Business but which are held in the name of any LENSAR Entity, or in the name of any employee, officer, director, stockholder or agent of any such LENSAR Entity, or otherwise, on behalf of any PDL Entity, to the appropriate PDL Entity.

**ARTICLE III.
DISTRIBUTION AND CERTAIN COVENANTS**

Section 3.1 Distribution.

(a) On or prior to the Distribution Date, PDL shall deliver to Computershare, Inc. (the "Agent") the capitalization table representing all of the issued and outstanding LENSAR Shares held by PDL for the benefit of the holders of PDL Common Stock, and PDL shall instruct the Agent to distribute, on or as soon as practicable following the Distribution Date, such number of the LENSAR Shares to holders of record of shares of PDL Common Stock on the Distribution Record Date (the "Record Holder"), all as further contemplated by the Registration Statement and hereby. LENSAR shall provide any share certificates that the Agent shall require in order to effect the Distribution. The Distribution shall be effective at 5:00 p.m., New York City time, on the Distribution Date.

(b) The LENSAR Shares issued in the Distribution are intended to be distributed only pursuant to a book entry system. PDL shall instruct the Agent to deliver the LENSAR Shares previously delivered to the Agent to a depository and to mail to each holder of record of PDL Common Stock on the Distribution Record Date, a statement of the LENSAR Common Stock credited to such holder's account.

(c) Record Holders who, after aggregating the number of LENSAR Common Stock (or fractions thereof) to which such Record Holder would be entitled on the Record Date, would be entitled to receive a fraction of a LENSAR Common Share in the Distribution, will receive cash in lieu of fractional shares. Fractional LENSAR Common Stock will not be distributed in the Distribution nor credited to book-entry accounts. The Agent shall, as soon as practicable after the Distribution Date (i) determine the number of whole shares and fractional shares of LENSAR

Common Stock allocable to each Record Holder, (ii) aggregate all such fractional shares into whole shares and sell the whole shares obtained thereby in open market transactions at then prevailing trading prices on behalf of holders who would otherwise be entitled to fractional share interests, and (iii) distribute to each such holder, or for the benefit of each such beneficial owner, such holder's or owner's ratable share of the net proceeds of such sale, based upon the average gross selling price per share of LENSAR Common Stock after making appropriate deductions for any amount required to be withheld for United States federal income tax purposes. PDL shall bear the cost of brokerage fees and transfer taxes incurred in connection with these sales of fractional shares, which such sales shall occur as soon after the Distribution Date as practicable and as determined by the Agent. None of PDL, LENSAR or the applicable Agent will guarantee any minimum sale price for the fractional LENSAR Common Stock. Neither PDL nor LENSAR will pay any interest on the proceeds from the sale of fractional shares. The Agent will have the sole discretion to select the broker-dealers through which to sell the aggregated fractional shares and to determine when, how and at what price to sell such shares. Neither the Agent nor the selected broker-dealers will be Affiliates of PDL or LENSAR. Any LENSAR Common Stock or cash in lieu of fractional shares with respect to LENSAR Common Stock that remains unclaimed by any holder of record one hundred-eighty (180) days after the Distribution Date shall be delivered to LENSAR. LENSAR shall hold such LENSAR Common Stock and/or cash for the account of such holder of record and any such holder of record shall look only to LENSAR for such LENSAR Common Stock and/or cash, if any, in lieu of fractional share interests, subject in each case to applicable escheat or other abandoned property laws.

(d) Notwithstanding any other provision of this Agreement, PDL, the Agent or any Person that is a withholding agent under applicable Law shall be entitled to deduct and withhold from any consideration distributable or payable hereunder the amounts required to be deducted and withheld under the Code, or any provision of any U.S. federal, state, local or foreign Tax Law. Any amounts so withheld shall be paid over to the appropriate Tax Authority in the manner prescribed by Law. To the extent that amounts are so deducted and withheld, such deducted and withheld amounts shall be treated for all purposes of this Agreement as having been paid to the Persons in respect of which such deduction and withholding was made. An applicable withholding agent may collect the deducted or withheld amounts by reducing to cash a sufficient portion of the LENSAR Shares that a Person would otherwise receive, and may require that such Person bear the brokerage or other costs from this withholding procedure.

Section 3.2 PDL Determinations. PDL shall have the sole and absolute discretion to determine whether to proceed with all or part of the Distribution and all terms thereof, including the form, structure and terms of any transaction(s) and/or offering(s) to effect the Distribution and the timing of and conditions to the consummation of the Distribution. LENSAR shall cooperate with PDL in all respects to accomplish the Distribution and shall, at PDL's direction, promptly take any and all actions necessary or desirable to effect the Distribution.

Section 3.3 Charter; Bylaws. On or prior to the Distribution Date, LENSAR and PDL shall take all necessary actions to provide for the adoption of the form of Certificate of Incorporation and Bylaws in substantially the form filed by LENSAR with the SEC as exhibits to the Registration Statement.

Section 3.4 Directors. On or prior to the Distribution Date, PDL and LENSAR shall have taken all necessary action to cause the board of directors of LENSAR to consist of the individuals identified in the Registration Statement as directors of LENSAR as of immediately following the Distribution.

Section 3.5 Election of Officers. On or prior to the Distribution Date, LENSAR shall take all actions necessary and desirable so that as of the Distribution Date the officers of LENSAR will be as set forth in the Registration Statement.

Section 3.6 State Securities Laws. Prior to the Distribution Date, PDL and LENSAR shall take all such action as may be necessary or appropriate under the securities or blue sky laws of states or other political subdivisions of the United States of America in order to effect the Distribution.

Section 3.7 Listing Application; Notice to Nasdaq.

(a) Prior to the Distribution Date, PDL and LENSAR shall prepare and file with Nasdaq a listing application and related documents and shall take all such other actions with respect thereto as shall be necessary or desirable in order to cause Nasdaq to list on or prior to the Distribution Date, subject to official notice of issuance, the LENSAR Shares.

(b) Prior to the Distribution, PDL shall, to the extent possible, give Nasdaq not less than 10 days' advance notice of the Distribution Record Date in compliance with Rule 10b-17 under the Exchange Act.

Section 3.8 Removal of Certain Guarantees; Releases from Liabilities.

(a) Except as otherwise specified in any Ancillary Agreement, (i) in the event that at any time before or after the Distribution Date, PDL or LENSAR identifies any LENSAR Liability for which any PDL Entity is a guarantor or obligor, LENSAR shall use its commercially reasonable efforts to have, as quickly as practicable, such PDL Entities removed as guarantor of or obligor for any such Liability of LENSAR, and (ii) in the event that at any time before or after the Distribution Date, PDL or LENSAR identifies any PDL Liability for which any LENSAR Entity is a guarantor or obligor, PDL shall use its commercially reasonable efforts to have, as quickly as practicable, such LENSAR Entities removed as guarantor of or obligor for any such Liability of PDL.

(b) If either Party is unable to obtain, or to cause to be obtained, any such required removal as set forth in Section 3.8(a), the guarantor or obligor shall continue to be bound as such and, unless not permitted by Law or the terms thereof, the applicable Party shall use commercially reasonable efforts to cause the relevant beneficiary to cause one of its Affiliates, as agent or subcontractor for such guarantor or obligor to pay, perform and discharge fully all the obligations or other Liabilities of the relevant guarantor or obligor thereunder from and after the date hereof.

(c) If (i) LENSAR is unable to obtain, or to cause to be obtained, any such required removal as set forth in Section 3.8(a), or (ii) LENSAR Liabilities arise from and after the Effective Time but before any PDL Entity, if such PDL Entity is a guarantor or obligor with

reference to any such LENSAR Liability, is removed pursuant to Section 3.8(a), then LENSAR shall indemnify each PDL Entity for all Liabilities incurred by any of them in such Person's capacity as guarantor or obligor. Without limiting the foregoing, LENSAR shall, or shall cause a LENSAR Entity to, reimburse PDL as soon as practicable (but in no event later than 30 days) following delivery by PDL to LENSAR of notice of a payment made pursuant to this Section 3.8 in respect of LENSAR Liabilities.

(d) If (i) PDL is unable to obtain, or to cause to be obtained, any such required removal as set forth in Section 3.8(a), or (ii) PDL Liabilities arise from and after the Effective Time but before any LENSAR Entity, if such LENSAR Entity is a guarantor or obligor with reference to any such LENSAR Liability, is removed pursuant to Section 3.8(a), then PDL shall indemnify each LENSAR Entity for all Liabilities incurred by any of them in such Person's capacity as guarantor or obligor. Without limiting the foregoing, PDL shall, or shall cause a PDL Entity to, reimburse LENSAR as soon as practicable (but in no event later than 30 days) following delivery by LENSAR to PDL of notice of a payment made pursuant to this Section 3.8 in respect of PDL Liabilities.

(e) In the event that at any time before or after the Distribution Date, PDL identifies any letters of credit, interest rate or foreign exchange contracts, surety bonds or other contracts (excluding guarantees) that relate primarily to the LENSAR Business but for which a PDL Entity has contingent, secondary, joint, several or other Liability of any nature whatsoever, LENSAR shall, at its expense, take such actions and enter into such agreements and arrangements as PDL may reasonably request to effect the release or substitution of PDL (or a PDL Entity).

(f) In the event that at any time before or after the Distribution Date, LENSAR identifies any letters of credit, interest rate or foreign exchange contracts, surety bonds or other contracts (excluding guarantees) that relate primarily to the PDL Business but for which a LENSAR Entity has contingent, secondary, joint, several or other Liability of any nature whatsoever, PDL shall, at its expense, take such actions and enter into such agreements and arrangements as LENSAR may reasonably request to effect the release or substitution of LENSAR (or a LENSAR Entity).

(g) At and after the Effective Time, the Parties shall use commercially reasonable efforts to obtain, or cause to be obtained, any consent, substitution or amendment required to novate, assign or extinguish all LENSAR Liabilities (with respect to the PDL Entities) and PDL Liabilities (with respect to the LENSAR Entities) of any nature whatsoever transferred under this Agreement or an Ancillary Agreement, or to obtain in writing the unconditional release of the assignor so that in each such case, PDL (or an appropriate PDL Entity) shall be solely responsible for the PDL Liabilities and LENSAR (or an appropriate LENSAR Entity) shall be solely responsible for the LENSAR Liabilities; provided, however, that no Party shall be obligated to pay any consideration therefor (except for filing fees or other similar charges) to any Third Party from whom such consent, substitution, amendment or release is requested. Whether or not any such consent, substitution, amendment or release is obtained, nothing in this Section 3.8 shall in any way limit the obligations of the Parties under Article V. If, as and when it becomes possible to delegate, assign, novate or extinguish any LENSAR Liabilities or PDL Liabilities in accordance with the terms hereof, the Parties shall promptly sign all such documents and perform all such other acts as may be necessary to give effect to such delegation, novation, extinction or other release; provided, however, that no Party shall be obligated to pay any consideration therefor.

Section 3.9 Corporate Names; Trademarks. Except as otherwise specifically provided in any Ancillary Agreement or in any other agreement to which a PDL Entity and a LENSAR Entity are parties, as soon as reasonably practicable after the Distribution Date but in any event within the time period set forth on Schedule 3.9, each of LENSAR and PDL will, at their own expense, cause their respective Subsidiaries to take the actions set forth on Schedule 3.9.

Section 3.10 Ancillary Agreements. Prior to or on the Distribution Date, each of PDL and LENSAR shall enter into the Ancillary Agreements and any other agreements in respect of the Distribution reasonably necessary or appropriate in connection with the Transactions.

Section 3.11 Acknowledgment by LENSAR. LENSAR, on behalf of itself and all LENSAR Entities, acknowledges, understands and agrees that, except as expressly set forth herein or in any Ancillary Agreement, (a) none of PDL or any other Person has, in this Agreement or in any other agreement or document, or otherwise made any representation or warranty of any kind whatsoever, express or implied, to LENSAR or any LENSAR Entity or to any director, officer, employee or agent thereof in any way with respect to any of the Transactions or the business, assets, condition or prospects (financial or otherwise) of, or any other matter involving, the assets, Liabilities or businesses of PDL or any PDL Entity, LENSAR or any LENSAR Entity, any LENSAR Assets, any LENSAR Liabilities or the LENSAR Business and (b) none of PDL or any other Person has made or makes any representation or warranty with respect to the Distribution or the entering into of this Agreement or the Ancillary Agreements or the Transactions. Except as expressly set forth herein or in any other Ancillary Agreement, LENSAR and each LENSAR Entity shall bear the economic and legal risk that the LENSAR Assets shall prove to be insufficient or that the title of any LENSAR Entity to any LENSAR Assets shall be other than good and marketable and free from encumbrances. The provisions of any related assignment agreement or other related documents are expressly subject to this Section 3.11 and to Section 3.12.

Section 3.12 Release.

(a) Except as provided in Section 3.12(c), effective as of the Effective Time, LENSAR does hereby, on behalf of itself and each other LENSAR Entity, release and forever discharge each PDL Indemnitee, from any and all Liabilities whatsoever to any LENSAR Entity, whether at law or in equity (including any right of contribution), whether arising under any Contract, by operation of Law or otherwise, existing or arising from any acts or events occurring or failing to occur or alleged to have occurred or to have failed to occur or any conditions existing or alleged to have existed at or before the Effective Time, including in connection with the Transactions.

(b) Except as provided in Section 3.12(c), effective as of the Effective Time, PDL does hereby, for itself and each other PDL Entity, release and forever discharge each LENSAR Indemnitee from any and all Liabilities whatsoever to any PDL Entity, whether at law or in equity (including any right of contribution), whether arising under any Contract, by operation of Law or otherwise, existing or arising from any acts or events occurring or failing to occur or alleged to have occurred or to have failed to occur or any conditions existing or alleged to have existed at or before the Effective Time, including in connection with the Transactions.

(c) Nothing contained in Section 3.12(a) or Section 3.12(b) shall impair any right of any Person to enforce this Agreement, any Ancillary Agreement or any agreements, arrangements, commitments or understandings that are specified in, or contemplated to continue pursuant to, this Agreement or any Ancillary Agreement. Without limiting the foregoing, nothing contained in Section 3.12(a) or Section 3.12(b) shall release any Person from:

(i) any Liability assumed, transferred, assigned or allocated to such Person or any Entity affiliated with such Person in accordance with, or any other Liability of such person or any Entity affiliated with such Person under, this Agreement or any Ancillary Agreement;

(ii) any Liability that such Person may have with respect to indemnification or contribution pursuant to this Agreement or any Ancillary Agreement for claims brought by third Persons, which Liability shall be governed by the provisions of Article V and, if applicable, the appropriate provisions of the Ancillary Agreements;

(iii) any unpaid accounts payable or receivable arising from or relating to the sale, provision, or receipt of goods, payment for goods, property or services purchased, obtained or used in the ordinary course of business by any PDL Entity from any LENSAR Entity, or by any LENSAR Entity from any PDL Entity;

(iv) any Liability the release of which would result in the release of any Person other than a PDL Indemnitee (in the case of the release by the LENSAR Entities) or a LENSAR Indemnitee (in the case of the release by the PDL Entities); provided that each Party agrees not to bring suit, or permit any Entity affiliated with such Party to bring suit, against any such PDL Indemnitee or LENSAR Indemnitee (as applicable) with respect to such Liability;

(v) any indemnification obligation under such Person's articles of incorporation or bylaws; and

(vi) any Liability arising under a written Contract entered into between a PDL Entity and a LENSAR Entity prior to the Effective Time relating to the commercial sale of products or provision of services between such Entities (including for such purpose, their respective Affiliates).

(d) LENSAR shall not make, and shall not permit any other LENSAR Entity to make, any claim or demand, or commence any Action asserting any claim or demand, including any claim of contribution or indemnification, against any PDL Indemnitee with respect to any Liabilities released pursuant to Section 3.12(a). PDL shall not make, and shall not permit any other PDL Entity to make, any claim or demand, or commence any Action asserting any claim or demand, including any claim of contribution or any indemnification, against any LENSAR Indemnitee with respect to any Liabilities released pursuant to Section 3.12(b).

(e) It is the intent of each of PDL and LENSAR by virtue of the provisions of this Section 3.12 to provide for a full and complete release and discharge of all Liabilities existing or arising from all acts and events occurring or failing to occur or alleged to have occurred or to have failed to occur and all conditions existing or alleged to have existed at or before the Effective Time, between or among PDL or any other PDL Entity, on the one hand, and LENSAR or any other LENSAR Entity, on the other hand (including any contractual agreements or arrangements existing or alleged to exist between or among any such Entity(ies) at or before the Effective Time), except as expressly set forth in Section 3.12(c). At any time, at the reasonable request of a Party, the other Party will cause each Entity affiliated with such Party to execute and deliver releases reflecting the provisions hereof.

Section 3.13 Discharge of Liabilities.

(a) Except as otherwise expressly provided herein or in any of the Ancillary Agreements, from and after the Effective Time, (i) PDL shall, and shall cause each other PDL Entity to, assume, pay, perform and discharge all PDL Liabilities in the ordinary course of business, consistent with past practice and (ii) LENSAR shall, and shall cause each other LENSAR Entity to, assume, pay, perform and discharge all LENSAR Liabilities in the ordinary course of business, consistent with past practice. The agreements in this Section 3.13 are made by each Party for the sole and exclusive benefit of the other Party and the Entities affiliated with such other Party. To the extent reasonably requested to do so by the other Party, each Party agrees to execute and deliver such documents, in a form reasonably satisfactory to such Party, as may be reasonably necessary to evidence the assumption of any Liabilities hereunder.

(b) All intercompany trade, accounts receivable and accounts payable between any PDL Entity and LENSAR Entity in existence at the Effective Time shall be paid, performed or otherwise settled in accordance with the Restructuring Plan.

Section 3.14 Administration of Accounts.

(a) All payments and reimbursements by any third-party (including in any lockbox or similar bank account of PDL or any of the other PDL Parties (other than LENSAR and the other LENSAR Parties)) in the name of or to PDL or any of the other PDL Parties (other than LENSAR and the other LENSAR Parties) that constitute LENSAR Assets, or are received in respect of, the LENSAR Business that are received after the Distribution shall be held by such PDL Party in trust for the benefit of LENSAR and such PDL Party shall pay over or cause to be paid over to LENSAR promptly within five business days the amount of such payment or reimbursement without deduction, withholding or right of set-off; provided, however, that such PDL Party shall have the right to set-off, without duplication, any amounts owed to it by any LENSAR Party pursuant to the Transition Services Agreement.

(b) All payments and reimbursements by any third-party (including in any lockbox or similar bank account of LENSAR or any of the other LENSAR Parties) in the name of or to LENSAR or any of the other LENSAR Parties that constitute PDL Assets, or are received in respect of, the PDL Business that are received after the Distribution shall be held by such LENSAR Party in trust for the benefit of PDL and such LENSAR Party shall pay over or cause to be paid over to PDL promptly within five business days the amount of such payment or reimbursement without deduction, withholding or right of set-off; provided, however, that such LENSAR Party shall have the right to set-off, without duplication, any amounts owed to it by any PDL Party pursuant to the Transition Services Agreement.

Section 3.15 Further Assurances. If at any time after the Effective Time any further action is reasonably necessary or desirable to carry out the purposes of this Agreement and the Ancillary Agreements, the proper officers of each Party shall take all such necessary action and do and perform all such acts and things, and execute and deliver all such agreements, assurances to the extent reasonably requested to do so by the other Party, each Party agrees to execute and deliver such documents, in a form reasonably satisfactory to such Party, as may be reasonably necessary to evidence the assumption of any Liabilities hereunder. Without limiting the foregoing, each Party shall use its commercially reasonable efforts promptly to obtain all consents and approvals, to enter into all agreements and to make all filings and applications that may be required for the consummation of the Transactions, including all applicable filings with, and approvals from, any Governmental Authority.

ARTICLE IV. CONDITIONS PRECEDENT

Section 4.1 Conditions Precedent to Consummation of the Transactions. None of the Transactions shall become effective unless the following conditions have been satisfied or (except with respect to clauses (b) and (c) below) waived by the Board of Directors of PDL, in its sole and absolute discretion, at or before the Distribution:

- (a) the Board of Directors of PDL shall have approved the Transactions, including the declaration of the Distribution, which approval may be given or withheld at its sole and absolute discretion;
- (b) the SEC has declared effective the Registration Statement, with no stop order in effect with respect thereto, and with no proceedings for such purpose pending or threatened by the SEC;
- (c) LENSAR shall have mailed the Information Statement (and such other information concerning LENSAR, the LENSAR Business, LENSAR's operations and management, the Distribution and such other matters as the Parties shall determine and as may otherwise be required by Law) to the holders of record of PDL Common Stock at the close of business on the record date for the Distribution;
- (d) all other actions and filings necessary or appropriate under applicable federal or state securities Laws and state blue sky Laws in connection with the Transactions shall have been taken;
- (e) the LENSAR Common Stock to be distributed pursuant to the Distribution and related transactions shall have been accepted for listing on Nasdaq, subject to official notice of issuance;

(f) the Ancillary Agreements shall have been executed and delivered by each of the Parties thereto and no Party to any of the Ancillary Agreements will be in material breach of any such agreement;

(g) any material Governmental Authorizations necessary to consummate the Transactions, or any portion thereof, shall have been obtained and be in full force and effect;

(h) LENSAR's amended and restated certificate of incorporation and amended and restated bylaws, each in substantially the form filed as exhibits to the Registration Statement are in effect;

(i) no preliminary or permanent injunction or other order, decree, or ruling issued by a Governmental Authority, and no statute (as interpreted through orders or rules of any Governmental Authority duly authorized to effectuate the statute), rule, regulation or executive order promulgated or enacted by any Governmental Authority shall be in effect preventing the consummation of, or materially limiting the benefits of, the Transactions; and

(j) no other event or development shall have occurred or failed to occur that, in the judgment of the Board of Directors of PDL, in its sole discretion, prevents the consummation of the Transactions or any portion thereof or makes the consummation of the Transactions inadvisable.

Section 4.2 Right Not to Close. Each of the conditions set forth in Section 4.1 is for the benefit of PDL and the Board of Directors of PDL may, in its sole and absolute discretion, determine whether to waive any condition, in whole or in part (other than the conditions set forth in Sections 4.1(b) and 4.1(c) above). Any determination made by the Board of Directors of PDL concerning the satisfaction or waiver of any or all of the conditions in Section 4.1 will be conclusive and binding on the Parties. The satisfaction of the conditions set forth in Section 4.1 will not create any obligation on the part of PDL to any other Person to effect any of the Transactions or in any way limit PDL's right to terminate this Agreement as set forth in Section 10.11.

ARTICLE V. INDEMNIFICATION

Section 5.1 Indemnification by PDL. Except as otherwise specifically set forth in any provision of this Agreement from and after the Distribution Date, PDL shall indemnify, defend and hold harmless the LENSAR Indemnitees from and against any and all Losses of the LENSAR Indemnitees to the extent arising out of, by reason of or otherwise in connection with (a) the PDL Liabilities or alleged PDL Liabilities, including any breach by PDL of any provision of this Section 5.1, (b) any breach by any PDL Entity of this Agreement, and (c) solely with respect to information regarding any PDL Entity provided by any PDL Entity in writing to LENSAR expressly for inclusion in the Registration Statement or the Information Statement, any untrue statement or alleged untrue statement of a material fact or omission or alleged omission to state a material fact required to be stated therein or necessary to make the statements therein not misleading. This Agreement is not intended to address, and should not be interpreted to address, the matters specifically and expressly covered by the Ancillary Agreements unless such Ancillary Agreement expressly provides that this Agreement applies to any matter in such Ancillary Agreement.

Section 5.2 Indemnification by LENSAR. Except as otherwise specifically set forth in any provision of this Agreement, from and after the Distribution Date, LENSAR shall indemnify, defend and hold harmless the PDL Indemnitees from and against any and all Losses of the PDL Indemnitees to the extent arising out of, by reason of or otherwise in connection with (a) the LENSAR Liabilities or alleged LENSAR Liabilities, including any breach by any LENSAR Entity of any provision of this Section 5.2, (b) any breach by any LENSAR Entity of this Agreement, and (c) with respect to all information contained in the Registration Statement or the Information Statement (other than information regarding any PDL Entity provided by any PDL Entity in writing to LENSAR expressly for inclusion in the Registration Statement or the Information Statement), any untrue statement or alleged untrue statement of a material fact or omission or alleged omission to state a material fact required to be stated therein or necessary to make the statements therein not misleading. This Agreement is not intended to address, and should not be interpreted to address, the matters specifically and expressly covered by the Ancillary Agreements unless such Ancillary Agreement expressly provides that this Agreement applies to any matter in such Ancillary Agreement.

Section 5.3 Procedures for Indemnification.

(a) If a claim or demand is made by a Third Party (a "Third-Party Claim") against a LENSAR Indemnitee or a PDL Indemnitee (each, an "Indemnitee") as to which such Indemnitee is entitled to indemnification pursuant to this Agreement, such Indemnitee shall notify the Party which is or may be required pursuant to Sections 5.1 or 5.2 hereof to make such indemnification (the "Indemnifying Party") in writing, and in reasonable detail, of the Third-Party Claim promptly and in any event by the date that is the 15th Business Day after receipt by such Indemnitee of written notice of the Third-Party Claim; provided, however, that failure to give such notification shall not affect the indemnification provided hereunder except to the extent the Indemnifying Party shall have been actually prejudiced as a result of such failure.

(b) Thereafter, the Indemnitee shall deliver to the Indemnifying Party, promptly (and in any event within 10 Business Days after the Indemnitee's receipt thereof), copies of all notices and documents (including court papers) received by the Indemnitee relating to the Third-Party Claim. Notice under this Section 5.3 shall be provided in accordance with Section 10.6. For the avoidance of doubt, knowledge of a Third-Party Claim by a Person who is a director of both PDL and LENSAR shall not constitute notice for purposes of this Section 5.3.

(c) Subject to Section 5.3(c), if a Third-Party Claim is made against an Indemnitee, the Indemnifying Party shall be entitled to participate in the defense thereof and, if it so chooses and irrevocably acknowledges without condition or reservation its obligation to fully indemnify the Indemnitee therefor, to assume the defense thereof with counsel selected by the Indemnifying Party; provided, however, that such counsel is not reasonably objected to by the Indemnitee. Should the Indemnifying Party so elect to assume the defense of a Third-Party Claim, the Indemnifying Party shall, within 30 days (or sooner if the nature of the Third-Party Claim so requires), notify the Indemnitee of its intent to do so, and the Indemnifying Party shall thereafter not be liable to the Indemnitee for legal or other expenses subsequently incurred by the

Indemnatee in connection with the defense thereof; provided, however, that such Indemnatee shall have the right to employ counsel to represent such Indemnatee if, in such Indemnatee's reasonable judgment, (A) a conflict of interest between such Indemnatee and such Indemnifying Party exists in respect of such claim which would make representation of both such Parties by one counsel inappropriate, or (B) the Third-Party Claim involves substantially different defenses for the Indemnifying Party and the Indemnatee, and in such event the fees and expenses of such single separate counsel shall be paid by such Indemnifying Party. If the Indemnifying Party assumes such defense, the Indemnatee shall have the right to participate in the defense thereof and to employ counsel, subject to the proviso of the preceding sentence, at its own expense, separate from the counsel employed by the Indemnifying Party, it being understood that the Indemnifying Party shall control such defense. The Indemnifying Party shall be liable for the fees and expenses of counsel employed by the Indemnatee for any period during which the Indemnifying Party has failed to assume the defense thereof (other than during the period prior to the time the Indemnatee shall have given notice of the Third-Party Claim as provided above).

(d) If the Indemnifying Party shall have assumed the defense of a Third-Party Claim, in no event will the Indemnatee admit any liability with respect to, or settle, compromise or discharge, any Third-Party Claim without the Indemnifying Party's prior written consent; provided, however, that the Indemnatee shall have the right to settle, compromise or discharge such Third-Party Claim without the consent of the Indemnifying Party if the Indemnatee releases the Indemnifying Party from its indemnification obligation hereunder with respect to such Third-Party Claim and such settlement, compromise or discharge would not otherwise adversely affect the Indemnifying Party. The Indemnifying Party shall not enter into any settlement, compromise or discharge of a Third-Party Claim without the consent (not to be unreasonably withheld, conditioned or delayed) of the Indemnatee if the settlement (A) has the effect of permitting any injunction, declaratory judgment, other order or other non-monetary relief to be entered, directly or indirectly, against the Indemnatee, (B) does not completely release the Indemnatee from all Liabilities and obligations with respect to such claim, (C) includes a statement or admission of fault, culpability or failure to act by or on behalf of the Indemnatee, or (D) is otherwise prejudicial to the Indemnatee. If an Indemnifying Party elects not to assume the defense of a Third-Party Claim, or fails to notify an Indemnatee of its election to do so as provided herein, such Indemnatee may compromise, settle or defend such Third-Party Claim; provided that the Indemnatee shall not compromise or settle such Third-Party Claim without the consent of the Indemnifying Party, which consent is not to be unreasonably withheld, conditioned or delayed.

(e) Notwithstanding the foregoing, the Indemnifying Party shall not be entitled to assume the defense of any Third-Party Claim (and shall be liable for the fees and expenses of counsel incurred by the Indemnatee in defending such Third-Party Claim) if the Third-Party Claim seeks an order, injunction or other equitable relief or relief for other than money damages against the Indemnatee which the Indemnatee reasonably determines, after conferring with its counsel, cannot be separated from any related claim for money damages. If such equitable relief or other relief portion of the Third-Party Claim can be so separated from that for money damages, the Indemnifying Party shall be entitled to assume the defense of the portion relating to money damages.

(f) In the event of payment by an Indemnifying Party to any Indemnatee in connection with any Third-Party Claim, such Indemnifying Party shall be subrogated to and shall

stand in the place of such Indemnitee as to any events or circumstances in respect of which such Indemnitee may have any right or claim relating to such Third-Party Claim. Such Indemnitee shall cooperate with such Indemnifying Party in a reasonable manner, and at the cost and expense of such Indemnifying Party, in prosecuting any subrogated right or claim.

(g) LENSAR shall, and shall cause the other LENSAR Indemnitees to, and PDL shall, and shall cause the other PDL Indemnitees to, cooperate as may reasonably be required in connection with the investigation, defense and settlement of any Third-Party Claim. In furtherance of this obligation, the Parties agree that if an Indemnifying Party chooses to defend or to compromise or settle any Third-Party Claim, PDL or LENSAR, as the case may be, shall use its reasonable best efforts to make available to the other Party, upon written request, the former and then current directors, officers, employees and agents of PDL or any LENSAR Entity (as applicable) as witnesses and any Records or other documents within its control or which it otherwise has the ability to make available, to the extent that any such Person, Records or other documents may reasonably be required in connection with such defense, settlement or compromise. At the request of an Indemnifying Party, an Indemnitee shall enter into a reasonably acceptable joint defense agreement.

(h) The remedies provided in this Article V shall be cumulative and shall not preclude assertion by any Indemnitee of any other rights or the seeking of any and all other remedies against any Indemnifying Party.

(i) The provisions of this Section 5.3 (other than this Section 5.3(i)) and the provisions of Section 5.4 shall not apply to Taxes (Taxes being governed by the Tax Matters Agreement).

Section 5.4 Indemnification Payments.

(a) Indemnification required by this Article V 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 a Loss is incurred. If the Indemnifying Party fails to make an indemnification payment required by this Article V within 30 days after receipt of a bill therefore or notice that a Loss has been incurred, the Indemnifying Party shall also be required to pay interest on the amount of such indemnification payment, from the date of receipt of the bill or notice of the Loss to but not including the date of payment, at the Applicable Rate.

(b) The amount of any claim by an Indemnitee under this Agreement shall be reduced to reflect any insurance proceeds actually received (net of costs or any mandatory premium increases) by any Indemnitee that result from the Losses that gave rise to such indemnity. Notwithstanding the foregoing, no Indemnitee will be obligated to seek recovery for any Losses from any Third Party before seeking indemnification under this Agreement and in no event will an Indemnifying Party's obligation to indemnify and hold harmless any Indemnitee pursuant to this Agreement be conditioned upon the status of the recovery of any offsetting amounts from any such Third Party.

Section 5.5 Survival of Indemnities. The rights and obligations of each of PDL and LENSAR and their respective Indemnitees under this Article V will survive the sale or transfer by any Party of any assets or businesses or the assignment by it of any Liabilities.

Section 5.6 Limitation on Liability. Except as may expressly be set forth in this Agreement or any Ancillary Agreement, none of PDL, any other PDL Entity, LENSAR, or any other LENSAR Entity shall in any event have any Liability to the other Party or to any Entity affiliated with the other Party, or to any other PDL Indemnitee or LENSAR Indemnitee, as applicable, under this Agreement (a) to the extent that any such Liability resulted from any willful violation of Law or fraud by the Party seeking indemnification or (b) for any exemplary, punitive, special, indirect, consequential, remote or speculative damages (including in respect of lost profits or revenues), however caused and on any theory of liability (including negligence) arising in any way out of any provision of this Agreement, except to the extent, in the case of this clause (b), any such damages were natural, probable and reasonably foreseeable as of the date hereof. Notwithstanding the foregoing, the provisions of this Section 5.6 shall not limit an Indemnifying Party's indemnification obligations with respect to any Liability that any Indemnitee may have to any third party not affiliated with any PDL Entity or LENSAR Entity.

ARTICLE VI. LITIGATION MATTERS

Section 6.1 Case Allocation.

(a) As of the Distribution Date, LENSAR shall, and, as applicable, shall cause the other LENSAR Entities to (i) diligently conduct, at its sole cost and expense, the defense of the LENSAR Actions and any applicable future LENSAR Actions; (ii) notify PDL of material litigation developments related to the LENSAR Actions; and (iii) agree not to file any cross claim or institute separate legal proceedings against PDL in relation to the LENSAR Actions. Upon the settlement or judgment of any LENSAR Action, LENSAR shall in good faith determine an equitable apportionment of such settlement or judgment as between LENSAR and PDL. If PDL provides LENSAR with a written notice of PDL's objection to LENSAR's allocation of Liability within 60 days of receipt of that allocation, LENSAR and PDL shall endeavor in good faith to negotiate a mutually agreeable allocation of such Liability. If PDL and LENSAR have not reached a mutually agreeable allocation of such Liability within 90 days of LENSAR's receipt of such objection notice, either PDL or LENSAR may request in writing to the other Party that such allocation be resolved through the dispute resolution mechanism provided in Article VIII herein.

(b) As of the Distribution Date, PDL shall, and, as applicable, shall cause the other PDL Entities to (i) diligently conduct, at its sole cost and expense, the defense of the PDL Actions, including and any applicable future PDL Actions; (ii) notify LENSAR of material litigation developments related to the PDL Actions; (iii) agree not to file any cross claim or institute separate legal proceedings against LENSAR in relation to the PDL Actions. Upon the settlement or judgment of any PDL Action, PDL shall in good faith determine an equitable apportionment of the settlement or judgment as between PDL and LENSAR. If LENSAR provides PDL with a written notice of LENSAR's objection to PDL's allocation of Liability within 60 days of receipt of that allocation, PDL and LENSAR shall endeavor in good faith to

negotiate a mutually agreeable allocation of such Liability. If LENSAR and PDL have not reached a mutually agreeable allocation of such Liability within 90 days of PDL's receipt of such objection notice, either LENSAR or PDL may request in writing to the other Party that such allocation be resolved through the dispute resolution mechanism provided in Article VIII herein.

(c) Each of PDL and LENSAR agrees that at all times from and after the Effective Time, if an Action currently exists or is commenced by a third party with respect to which a Party (or any Entity affiliated with such Party) is a named defendant but such Action is otherwise not a Liability allocated to such named Party under this Agreement or any Ancillary Agreement, then the other Party shall use commercially reasonable efforts to cause the named but not liable defendant to be removed from such Action.

(d) Notwithstanding anything in this Section 6.1 to the contrary, (i) PDL shall have the right to participate in the defense of any LENSAR Action from which it has not been removed, and to be represented by attorneys of its own choosing and at its sole cost and expense and (ii) LENSAR shall have the right to participate in the defense of any PDL Action from which it has not been removed, and to be represented by attorneys of its own choosing and at its sole cost and expense.

(e) LENSAR shall indemnify and hold harmless PDL and the other PDL Entities against LENSAR Liabilities arising in connection with any Action, and PDL shall indemnify and hold harmless LENSAR and the other LENSAR Entities against PDL Liabilities arising in connection with any Action, in each case, in accordance with the indemnification provisions of Article V.

(f) Joint Actions.

(i) As of the Distribution Date, PDL shall, and, as applicable, shall cause the other PDL Entities to (A) diligently conduct the defense of the Joint Actions and any applicable future Joint Actions; (B) notify LENSAR of material litigation developments related to the Joint Actions; and (C) agree not to file any cross claim or institute separate legal proceedings against LENSAR in relation to the Joint Actions; provided, however, that if it becomes clear that a Joint Action relates primarily to the LENSAR Business then from and after such time such Joint Action shall instead be deemed to be a LENSAR Action subject to Section 6.1(a) above, and LENSAR shall promptly reimburse PDL for any costs or expenses incurred by PDL in connection with such Joint Action pursuant to Section 6.1(f)(iii); provided, further, that if it becomes clear that a Joint Action relates primarily to the PDL Business then from and after such time such Joint Action shall instead be deemed to be a PDL Action subject to Section 6.1(b) above, and PDL shall promptly reimburse LENSAR for any costs or expenses incurred by LENSAR in connection with such Joint Action pursuant to Section 6.1(f)(iii). PDL and LENSAR shall regularly meet to review and discuss the progress of the Joint Actions and the classification thereof.

(ii) In a Joint Action, LENSAR shall have the right to employ separate counsel to represent it and the other LENSAR Entities if LENSAR shall have reasonably concluded that (A) there may be a legal defense available to the LENSAR Entities that

are different from or in addition to those available to PDL, (B) representation of both PDL (or any PDL Entity) and LENSAR (or any LENSAR Entity) by the same counsel would be inappropriate due to actual or potential differing interests between them, or (C) the Joint Action involves a claim for equitable relief which would restrict or limit the future conduct of LENSAR (or any LENSAR Entity) or LENSAR's (or any LENSAR Entity's) business or operations, in which case fees and expenses of such counsel incurred by LENSAR shall be included in the amounts allocated by Section 6.1(f)(iv). Otherwise, LENSAR shall have the right to employ separate counsel and to participate in (but not control) the defense, compromise, or settlement of any Joint Action, at its own expense. In the event of a conflict in the procedures described in this Section 6.1(f)(ii) and the procedures set forth in Sections 5.3(a) - (e), the terms of this Section 6.1(f)(ii) will control.

(iii) PDL shall initially pay all joint attorneys', accountants', consultants', expert witnesses' and other professionals' fees and expenses and all other out-of-pocket costs incurred on behalf of itself and LENSAR in the investigation, defense and/or evaluation of a Joint Action ("Litigation Expenses"). PDL shall periodically furnish to LENSAR copies of invoices paid by PDL for Litigation Expenses. Within 30 days of LENSAR's receipt of such invoices, LENSAR shall pay PDL an amount equal to one-half of the Litigation Expenses (or such other share of the Litigation Expenses as reasonably determined by PDL), representing LENSAR's estimated share of the Litigation Expenses. For each Joint Action, within 60 days of the final determination of LENSAR's allocation of Liability pursuant to Section 6.1(f)(iv) below, PDL shall provide to LENSAR a proposed allocation of the Litigation Expenses between PDL and LENSAR, calculated to be in proportion to PDL's and LENSAR's respective allocated Liability for the settlement or judgment of the Joint Action. If LENSAR does not object to the proposed allocation within 60 days, LENSAR shall pay to PDL, or PDL shall pay to LENSAR, the amount necessary to true up the amounts contributed by each company to match the allocation of the Litigation Expenses. If LENSAR provides PDL with a written notice of objection to PDL's allocation of Litigation Expenses within such 60 days, PDL and LENSAR shall endeavor in good faith to negotiate a mutually agreeable allocation of such Litigation Expenses. If LENSAR and PDL have not reached a mutually agreeable allocation of such Litigation Expenses within 90 days of PDL's receipt of such objection notice, either LENSAR or PDL may request in writing to the other Party that such allocation be resolved through the dispute resolution mechanism provided in Article VIII.

(iv) PDL shall propose an allocation of Liability for any judgment or settlement of a Joint Action, based upon, if available, the allocation identified by a court verdict or, in the event of a settlement, the settling counterparty (i.e., the third party that PDL and/or LENSAR is entering into a settlement with). If neither is available, PDL shall in good faith determine an equitable apportionment of Liability as between PDL and LENSAR based on the portion of Liability relating primarily to each of the PDL Business and LENSAR Business, respectively. If LENSAR provides PDL with a written notice of objection to PDL's allocation of Liability within 60 days of receipt of that allocation, PDL and LENSAR shall endeavor in good faith to negotiate a mutually agreeable allocation of such Liability. If LENSAR and PDL have not reached a mutually agreeable

allocation of such Liability within 90 days of PDL's receipt of such objection notice, either LENSAR or PDL may request in writing to the other Party that such allocation be resolved through the dispute resolution mechanism provided in Article VIII herein.

ARTICLE VII. ACCESS TO INFORMATION

Section 7.1 Provision of Corporate Records.

(a) Except as provided in the Tax Matters Agreement, at all times from and after the Distribution Date, upon the prior written request by LENSAR for specific and identified agreements, documents, books, records or files including accounting and financial records (collectively, "Records") which relate to LENSAR or the conduct of the LENSAR Business up to the Effective Time, or which LENSAR determines are necessary or advisable (i) for use in any Action or to satisfy audit, accounting, claims, regulatory, litigation or other similar legal or regulatory requirements or (ii) to comply with reporting, disclosure, filing or other requirements imposed on LENSAR or its Affiliates by a Governmental Authority, PDL shall arrange, as soon as reasonably practicable following the receipt of such request, to provide appropriate copies of such Records (or the originals thereof if LENSAR has a reasonable need for such originals) in the possession or control of PDL, but only to the extent such items are not already in the possession or control of the requesting Party.

(b) Except as provided in the Tax Matters Agreement, at all times from and after the Distribution Date, upon the prior written request by PDL for specific and identified Records which relate to PDL or LENSAR or the conduct of the PDL Business or the LENSAR Business up to the Effective Time, or which PDL determines are necessary or advisable (i) for use in any Action or to satisfy audit, accounting, claims, regulatory, litigation or other similar legal or regulatory requirements or (ii) to comply with reporting, disclosure, filing or other requirements imposed on PDL or its Affiliates (including without limitation under applicable securities and Tax Laws) by a Governmental Authority, LENSAR shall arrange, as soon as reasonably practicable following the receipt of such request, to provide appropriate copies of such Records (or the originals thereof if PDL has a reasonable need for such originals) in the possession or control of LENSAR, but only to the extent such items are not already in the possession or control of the requesting Party.

Section 7.2 Access to Information. From and after the Distribution Date, each of PDL and LENSAR shall afford to the other and its authorized Representatives reasonable access during normal business hours, subject to appropriate restrictions for classified, privileged or confidential information, to the Representatives, properties, and Records of, in the possession of or in the control of the non-requesting Party and its Subsidiaries insofar as such access is reasonably required by the requesting Party and relates to such other Party or the conduct of its business prior to the Effective Time.

Section 7.3 Witnesses; Documents and Cooperation in Actions.

(a) PDL and LENSAR shall each use commercially reasonable efforts to make available to the other, upon reasonable written request, its and its Subsidiaries' former and then

current officers, directors, employees and agents as witnesses and any Records or other documents within its control or which it otherwise has the ability to make available, to the extent that such Person, Records or other documents may reasonably be required in connection with any Action in which the requesting Party or any Entity affiliated with the requesting Party may from time to time be involved, except in the case of any Action in which any LENSAR Entity is adverse to any PDL Entity. The requesting Party shall bear all out-of-pocket expenses in connection therewith.

(b) Without limiting any provision of this Section 7.3, each Party shall, and shall cause each Entity affiliated with such Party to, cooperate and consult, to the extent reasonably necessary with respect to any Actions.

(c) In connection with any matter contemplated by this Section 7.3, the Parties will enter into a mutually acceptable joint defense agreement so as to maintain to the extent practicable any applicable attorney-client privilege or work product immunity of any PDL Entity and any LENSAR Entity.

Section 7.4 Confidentiality.

(a) PDL and the PDL Subsidiaries on the one hand, and LENSAR on the other hand, shall not use or permit the use of and shall keep, and shall cause their respective Representatives to keep, confidential all information concerning the other Party in their possession, their custody or under their control to the extent such information, (i) relates to or was acquired during the period up to the Effective Time, (ii) relates to any Ancillary Agreement, (iii) is obtained in the course of performing services for the other Party pursuant to any Ancillary Agreement or (iv) is based upon or is derived from information described in the preceding clauses (i), (ii) or (iii), and each Party shall not (without the prior written consent of the other) otherwise release or disclose such information to any other Person, except such Party's auditors, attorneys, consultants and advisors, unless compelled to disclose such information by judicial or administrative process or unless such disclosure is required by Law and such Party has used commercially reasonable efforts to consult with the other affected Party or Parties prior to such disclosure. Each Party shall be deemed to have satisfied its obligation to hold confidential any information concerning or owned by the other Party or any Entity affiliated with the other Party, if it exercises the same care as it takes to preserve confidentiality for its own similar information. The covenants in this Section 7.4 shall survive the transactions contemplated by this Agreement and shall continue indefinitely; provided, however, that the covenants in this Section 7.4 shall terminate with respect to any information not constituting a trade secret under applicable Law on the third anniversary of the later of the Distribution Date or the date on which the Party subject to such covenants with respect to such information receives it (but any such termination shall not terminate or otherwise limit any other covenant or restriction regarding the disclosure or use of such information under any Ancillary Agreement or other agreement, instrument or legal obligation). This Section 7.4 shall not apply to information (a) that has been in the public domain through no fault of such Party, (b) that has been later lawfully acquired from other sources by such Party, provided that such source is not known to be (or have been) bound by a confidentiality agreement, (c) the use or disclosure of which is permitted by this Agreement or any other Ancillary Agreement or any other agreement entered into pursuant hereto, (d) that is immaterial and its disclosure is required as part of the conduct of that Party's business and would not reasonably be expected to be detrimental to the interests of the other Party or (e) that the other Party has agreed in writing may be so used or disclosed.

(b) If any Party, or any Entity affiliated with such Party, either determines that it is required to disclose pursuant to applicable Law, or receives any demand under lawful process or from any Governmental Authority to disclose or provide, information of the other Party (or of any Entity affiliated with the other Party) that is subject to the confidentiality provisions of Section 7.4(a), such Party shall notify the other Party prior to disclosing or providing such information and shall cooperate at the expense of the requesting Party in seeking any reasonable protective arrangements requested by such other Party. Subject to the foregoing, the Person that received such request may thereafter disclose or provide such information if and to the extent required by such Law or by lawful process or such Governmental Authority; provided, however, that the Person shall only disclose such portion of the information as required to be disclosed or provided.

Section 7.5 Privileged Matters. Except as may be otherwise provided in an Ancillary Agreement, the Parties recognize that legal and other professional services that have been and will be provided prior to the Distribution Date have been and will be rendered for the benefit of the PDL Entities and the LENSAR Entities, and that each of the PDL Entities, and each of the LENSAR Entities should be deemed to be the client for the purposes of asserting all privileges which may be asserted under applicable Law. To allocate the interests of each Party in the information as to which any Party is entitled to assert a privilege, the Parties agree as follows:

(a) PDL shall be entitled, in perpetuity, to control the assertion or waiver of all privileges in connection with privileged information which relates solely to the PDL Business (other than with respect to Liabilities as to which LENSAR is required to provide indemnification under Article V or Article VI), whether or not the privileged information is in the possession of or under the control of PDL, LENSAR or any other Entity. PDL shall also be entitled, in perpetuity, to control the assertion or waiver of all privileges in connection with privileged information that relates solely to the subject matter of any claims constituting PDL Liabilities, or other Liabilities as to which it is required to provide indemnification under Article V or Article VI, now pending or which may be asserted in the future, whether or not the privileged information is in the possession of or under the control of PDL, LENSAR or any other Entity.

(b) LENSAR shall be entitled, in perpetuity, to control the assertion or waiver of all privileges in connection with privileged information which relates solely to the LENSAR Business (other than with respect to Liabilities as to which PDL is required to provide indemnification under Article V or Article VI), whether or not the privileged information is in the possession of or under the control of PDL, LENSAR or any other Entity. LENSAR shall also be entitled, in perpetuity, to control the assertion or waiver of all privileges in connection with privileged information which relates solely to the subject matter of any claims constituting LENSAR Liabilities, or other Liabilities as to which it is required to provide indemnification under Article V or Article VI, now pending or which may be asserted in the future, in any lawsuits or other proceedings initiated against or by LENSAR, whether or not the privileged information is in the possession of or under the control of PDL, LENSAR or any other Entity.

(c) The Parties agree that they shall have a shared privilege, with equal right to assert or waive, subject to the restrictions in this Section 7.5, with respect to all privileges not allocated pursuant to the terms of Sections 7.5(a) and 7.5(b).

(d) No Party may waive any privilege which could be asserted under any applicable Law, and in which the other Party has a shared privileged, without the consent of the other Party, which consent shall not be unreasonably withheld or delayed, except to the extent reasonably required in connection with any Third-Party Claims or as provided in subsection (e) below. Consent shall be in writing, or shall be deemed to be granted unless written objection is made within 20 days after notice upon the other Party requesting such consent.

(e) In the event of any litigation or dispute between or among the Parties, any Party and a Subsidiary of the other Party, or a Subsidiary of one Party and a Subsidiary of the other Party, either such Party may waive a privilege in which the other Party has a shared privilege, without obtaining the consent of the other Party, provided, however, that such waiver of a shared privilege shall be effective only as to the use of information with respect to the litigation or dispute between the Parties and/or their Subsidiaries, and shall not operate as a waiver of the shared privilege with respect to any Third-Party Claims.

(f) If a dispute arises between or among the Parties or their respective Subsidiaries regarding whether a privilege should be waived to protect or advance the interest of any Party, each Party agrees that it shall negotiate in good faith, shall endeavor to minimize any prejudice to the rights of the other Party, and shall not unreasonably withhold consent to any request for a waiver by the other Party. Each Party hereto specifically agrees that it will not withhold consent to a waiver for any purpose except to protect its own legitimate interests.

(g) Upon receipt by any Party or by any Subsidiary thereof of any subpoena, discovery or other request which arguably calls for the production or disclosure of information subject to a shared privilege or as to which another Party has the sole right hereunder to assert a privilege, or if any Party obtains knowledge that any of its or any of its Subsidiaries' current or former Representatives have received any subpoena, discovery or other request which arguably calls for the production or disclosure of such privileged information, such Party shall promptly notify the other Party of the existence of the request and shall provide the other Party a reasonable opportunity to review the information and to assert any rights it or they may have under this Section 7.5 or otherwise to prevent the production or disclosure of such privileged information.

(h) The transfer of all Records and other information pursuant to this Agreement is made in reliance on the agreement of PDL and LENSAR, as set forth in Sections 7.2, 7.4, and 7.5, to maintain the confidentiality of privileged information and to assert and maintain all applicable privileges. The access to information being granted pursuant to Sections 7.1, 7.2, and 7.3 hereof, the agreement to provide witnesses and individuals pursuant to Sections 7.2 and 7.3 hereof, the furnishing of notices and documents and other cooperative efforts contemplated by Section 7.3 hereof, and the transfer of privileged information between and among the Parties and their respective Subsidiaries, Affiliates and Representatives pursuant to this Agreement shall not be deemed a waiver of any privilege that has been or may be asserted under this Agreement or otherwise.

Section 7.6 Ownership of Information. Any information owned by one Party or any of its Subsidiaries that is provided to a requesting Party pursuant to this Article VII shall be deemed to remain the property of the providing Person. Unless specifically set forth herein, nothing contained in this Agreement shall be construed as granting or conferring rights of license or otherwise in any such information.

Section 7.7 Cost of Providing Records and Information. A Party requesting Records, information or access to Representatives, witnesses or properties, under this Article VII, agrees to reimburse the other Party and its Subsidiaries for the reasonable out-of-pocket costs, if any, incurred in seeking to satisfy the request of the requesting Party.

Section 7.8 Retention of Records. Except (a) as provided in the Tax Matters Agreement or (b) when a longer retention period is otherwise required by Law or agreed to in writing, the PDL Entities and the LENSAR Entities shall retain all Records relating to the PDL Business and the LENSAR Business as of the Effective Time for the periods of time provided in each Party's record retention policy (with respect to the documents of such Party and without regard to the Distribution or its effects) as in effect on the Distribution Date. Notwithstanding the foregoing, in lieu of retaining any specific Records, PDL or LENSAR may offer in writing to deliver such Records to the other and, if such offer is not accepted within 90 days, the offered Records may be destroyed or otherwise disposed of at any time. If a recipient of such offer shall request in writing prior to the scheduled date for such destruction or disposal that any of Records proposed to be destroyed or disposed of be delivered to such requesting Party, the Party proposing the destruction or disposal shall promptly arrange for delivery of such of the Records as was requested (at the cost of the requesting Party).

Section 7.9 Other Agreements Providing for Exchange of Information. The rights and obligations granted under this Article VII are subject to any specific limitations, qualifications or additional provisions on cooperation, access to information, privilege and the sharing, exchange or confidential treatment of information set forth in any Ancillary Agreement or in any other agreement to which a PDL Entity and a LENSAR Entity are parties.

Section 7.10 Policies and Best Practices. Without representation or warranty, LENSAR and PDL shall continue to be permitted to share, on a confidential basis, "best practices" information and materials (such as policies, workflow templates and standard form contracts).

Section 7.11 Compliance with Laws and Agreements. Nothing in this Article VII shall be deemed to require any Person to provide any information if doing so would, in the opinion of counsel to such Person, be inconsistent with any legal or constitutional obligation applicable to such Person.

ARTICLE VIII. **DISPUTE RESOLUTION**

Section 8.1 Agreement Disputes. Except as specifically provided in any Ancillary Agreement, any controversy, dispute or claim arising out of, in connection with, or in relation to the interpretation, performance, nonperformance, validity, termination, enforcement or breach of this Agreement, or otherwise arising out of, or in any way related to this Agreement or the

transactions contemplated hereby, including any claim based on contract, tort, statute or constitution (collectively, "Agreement Disputes") shall be determined by binding arbitration according to the following provisions, as the sole and exclusive means of resolving such dispute, claim or controversy.

Section 8.2 Negotiation. In the event either Party identifies an Agreement Dispute, it shall provide written notice thereof to the other Party identifying with reasonable particularity the facts which support the asserted dispute and the particular contractual provision at issue. Receipt of such notice by the other Party shall trigger a 30-day informal resolution process during which both Parties, through their designated representatives, shall attempt to resolve such Agreement Dispute in an amicable manner.

Section 8.3 Arbitration. In the event the Agreement Dispute remains unresolved at the end of such 30-day period, the Parties agree to seek to resolve such Agreement Dispute by arbitration administered by Judicial Arbitration and Mediation Services, Inc. ("JAMS") pursuant to its Comprehensive Arbitration Rules and Procedures (the "JAMS Rules"), conducted in Chicago, Illinois. For Agreement Disputes with an amount in controversy of less than \$500,000, exclusive of interest or attorneys' fees, the Agreement Dispute shall be heard and determined by a single arbitrator selected in accordance with the JAMS Rules. For Agreement Disputes with amount in controversy equal to or more than \$500,000, exclusive of interest or attorneys' fees, there shall be three arbitrators, with each Party appointing one arbitrator and the two party-appointed arbitrators agreeing on a third arbitrator who shall chair the arbitral tribunal. Any arbitrator not appointed within a reasonable time shall be appointed in accordance with the JAMS Rules. Any controversy concerning the jurisdiction of the arbitrator(s), whether an Agreement Dispute is an arbitrable Agreement Dispute, whether arbitration has been waived, whether an assignee of this Agreement is bound to arbitrate, or as to the interpretation of enforceability of this Article VIII shall be determined by the arbitrator(s). The final award in the arbitration shall be issued no later than six months after the date the arbitration is first filed with JAMS; all deadlines and dates in the arbitration shall be set such that they are consistent with, and shall not interfere with or derogate from, this six-month deadline. This Article VIII shall not preclude either Party from seeking provisional remedies in aid of arbitration from a court of appropriate jurisdiction.

Section 8.4 Choice of Law, Compliance, Enforcement, Costs. In resolving any Agreement Dispute, the Parties intend that the arbitrator(s) shall apply the substantive Laws of the State of Delaware, without regard to any choice of law principles thereof that would mandate the application of the laws of another jurisdiction. The Parties intend that the provisions to arbitrate set forth herein be valid, enforceable and irrevocable, and any award rendered by the arbitrator(s) shall be final and binding on the Parties. Each Party agrees to comply and to cause the Entities affiliated with such Party to comply with any award made in any such arbitration proceedings and agree to enforcement of or entry of judgment upon such award, in any court of competent jurisdiction. The arbitrator's decision shall not be subject to appeal in any forum, but shall be enforceable by Delaware Courts if full compliance has not occurred within 30 days of the arbitrator's written decision. Each Party shall bear its own costs of arbitration including its attorneys' fees, without regard to which Party prevails; provided, that, the non-prevailing Party, as determined and identified by the arbitrator(s), shall bear 100% of costs and fees of the arbitrator(s).

Section 8.5 Confidentiality of Proceedings. Unless otherwise agreed in writing by or among the relevant Parties or permitted by this Agreement, the relevant Parties shall keep, and shall cause the Entities affiliated with them to keep, confidential all matters relating to the arbitration or the award. All negotiations, conferences and discussions pursuant to this Article VIII shall be treated as compromise and settlement negotiations; provided, that such matters may be disclosed (a) to the extent reasonably necessary in any proceeding brought to enforce this agreement to arbitrate or any arbitral award or for entry of a judgment upon the award and (b) to the extent otherwise required by Law or regulatory authority.

Section 8.6 Continuity of Service and Performance. During the course of dispute resolution pursuant to the provisions of this Article VIII, the Parties will continue to provide all other services and honor all other commitments under this Agreement and each Ancillary Agreement with respect to all matters not subject to such dispute resolution.

ARTICLE IX. INSURANCE

Section 9.1 General. Each Insurance Policy owned or maintained by or on behalf of the PDL Entities that relates exclusively to (i) the LENSAR Business (“LENSAR Specific Policies”) shall be a LENSAR Asset and (ii) the PDL Business shall be a PDL Asset. All other Insurance Policies shall be subject to the provisions of Section 9.2.

Section 9.2 Combined Policies. Each of PDL and LENSAR hereby agrees to use its commercially reasonable efforts to take the following actions, effective in each case prior to or on the Distribution Date (it being understood that LENSAR shall be responsible for all premiums, costs and fees associated with (x) any new Insurance Policies placed for the benefit of LENSAR pursuant to this Section 9.2 and (y) any incremental increase in any Insurance Policy’s premiums, costs and fees associated with the prior acts coverage or with the transitional services coverage relating to the Transition Services Agreement):

(a) each Insurance Policy listed in Schedule 9.2(a) (the “Occurrence Based Policies”) shall be cancelled or endorsed such that separate policies for each of PDL and LENSAR shall be acquired on substantially similar terms, or such other terms as elected by the applicable insured party, as the Occurrence Based Policies (other than with respect to limits, retentions and deductibles, as applicable); and

(b) (i) each Insurance Policy listed in Schedule 9.2(b) (the “Claims Made Policies”) and together with the Occurrence Based Policies, the “Combined Policies”) shall be cancelled or endorsed such that (ii) separate claims made policies for LENSAR shall be acquired on substantially similar terms, or such other terms as elected by the applicable insured party, as the Claims Made Policies (other than with respect to limits, retentions and deductibles, as applicable), with retroactive dates under each such policy that are the same retroactive dates under the corresponding PDL Claims Made Policy for each of the insureds to be covered under the respective policies of PDL and LENSAR.

Section 9.3 D&O Policies.

(a) LENSAR shall cause directors and officers Insurance Policies to be put in place as of the Distribution Date for the benefit of directors and officers of the LENSAR Entities (it being understood that LENSAR shall be responsible for all premiums, costs and fees associated with such policies).

(b) For the six-year period commencing immediately after the Distribution Date, PDL shall maintain in effect coverage for claims that arise out of, or are primarily related to, the LENSAR Assets, serving as a director or officer of the LENSAR Entities, or the operation of the LENSAR Business prior to the Distribution Date, with respect to those Persons who are currently covered by the PDL Entities' existing directors and officers Insurance Policies, on terms and at limits no less favorable than the coverage currently provided under such policies.

(c) All premiums and commissions due with respect to the coverage under 9.3(b) shall be paid by PDL.

Section 9.4 Pre-Distribution Claims.

(a) With respect to existing occurrence based policies and (to the extent such claims have been or are drawn back to a period prior to the Distribution Date) claims made policies, for any claim asserted against any LENSAR Entity after the Distribution Date arising out of an occurrence or Loss taking place prior to the Distribution Date ("Pre-Distribution Claim"), the applicable LENSAR Entity may access coverage under the Insurance Policies under which the applicable LENSAR Entity is (or was) insured and PDL shall cooperate with the applicable LENSAR Entity in connection with the tendering of such claims.

(b) In the event that a Pre-Distribution Claim relates to the same occurrence for which any PDL Entity is seeking coverage under an Insurance Policy, and the limits under the applicable Insurance Policy are not sufficient to fund all covered claims of the applicable PDL Entity and the applicable LENSAR Entity, amounts due under such Insurance Policy shall be paid to the respective Entities in proportion to the amounts which otherwise would be due were the limits of liability infinite.

(c) After the Distribution Date, any third-party administrator fees and deposits related to claims made under any Insurance Policy shall be paid in accordance with the protocol historically used prior to the Distribution Date.

Section 9.5 Retentions/Deductibles.

(a) For any Pre-Distribution Claim made after the Distribution Date, all amounts necessary to exhaust or otherwise satisfy all applicable retentions, deductibles or other amounts not covered by such policy shall be:

- (i) paid by PDL to the extent such claim relates exclusively to the PDL Business;
- (ii) paid by LENSAR to the extent such claim relates exclusively to the LENSAR Business;

(iii) split equitably between PDL and LENSAR, as determined in PDL's reasonable discretion, for all other claims, including any claim relating to general corporate matters; or

(iv) LENSAR shall comply with all terms and conditions of all policies covering or potentially covering any Pre-Distribution Claims. LENSAR will cooperate with PDL, its counsel and its insurance broker concerning obtaining and maintaining coverage for Pre-Distribution Claims.

(b) LENSAR shall be permitted to determine whether to settle any claim for which LENSAR is required to pay any applicable deductibles or retentions pursuant to Section 9.5(a)(ii); provided that, LENSAR shall not enter into any such settlement without the consent (not to be unreasonably withheld, conditioned or delayed) of PDL if the settlement (i) has the effect of permitting any injunction, declaratory judgment, other order or other non-monetary relief to be entered, directly or indirectly, against any PDL Entity, (ii) does not release the PDL Entities from all liabilities and obligations with respect to such claim, (iii) includes an admission of guilt or liability on behalf of any of the PDL Entities, or (iv) is otherwise prejudicial to any PDL Entity.

(c) For the avoidance of doubt, any dispute between the Parties arising out of or related to this Section 9.5 shall be subject to the dispute resolution provisions of Article VIII.

Section 9.6 Unearned Premium. PDL shall be entitled to its respective interest in any unearned premium paid by any insurer as a result of the cancellation or endorsement of any of the Combined Policies pursuant to Section 9.2(a) or Section 9.2(b) or the D&O Policies pursuant to Section 9.3.

Section 9.7 Expirations and Renewals. With respect to any Combined Policy that expires prior to the Distribution Date, PDL shall, in its sole discretion, take any of the following actions: (i) allow the policy to expire and place separate policies for PDL and LENSAR in accordance with Section 9.2, as applicable, (ii) extend the policy through the Distribution Date or (iii) renew the policy.

Section 9.8 Copies of Policies. As soon as reasonably practical following the Distribution Date, PDL, at its own expense, shall provide to LENSAR copies of all LENSAR Specific Policies and all Combined Policies. At any time after the Distribution Date, upon the reasonable request of LENSAR, PDL shall provide to LENSAR copies of all other documents related to any LENSAR Specific Policies or any Combined Policies (in each case, including without limitation, certificates of insurance, insurer quotes and documents provided to underwriters).

ARTICLE X. MISCELLANEOUS

Section 10.1 Complete Agreement; Construction. This Agreement, including the Schedules, and the Ancillary Agreements shall constitute the entire agreement between the Parties with respect to the subject matter hereof and shall supersede all previous negotiations, commitments and writings with respect to such subject matter.

Section 10.2 Ancillary Agreements. Except as may be expressly stated herein, this Agreement is not intended to address, and should not be interpreted to address, the matters specifically and expressly covered by the Ancillary Agreements.

Section 10.3 Counterparts. This Agreement may be executed in one or more counterparts, all of which shall be considered one and the same agreement, and shall become effective when one or more such counterparts have been signed by each of the Parties and delivered to the other Party.

Section 10.4 Survival of Agreements. Except as otherwise contemplated by this Agreement, all covenants and agreements of the Parties contained in this Agreement shall survive the Distribution Date.

Section 10.5 Distribution Expenses. Except as set forth on Schedule 10.5 or as otherwise expressly set forth in this Agreement or any Ancillary Agreement, all costs and expenses incurred on or prior to the Distribution Date (whether or not paid on or prior to the Distribution Date) in connection with the preparation, execution, delivery, printing and implementation of this Agreement and any Ancillary Agreement, the Registration Statement, the Distribution and the consummation of the transactions contemplated thereby, shall be charged to and paid by PDL. Except as set forth on Schedule 10.5, such expenses shall be deemed to be PDL Liabilities. Except as otherwise set forth in this Agreement or any Ancillary Agreement, each Party shall bear its own costs and expenses incurred after the Distribution Date. Any amount or expense to be paid or reimbursed by any Party to any other Party shall be so paid or reimbursed promptly after the existence and amount of such obligation is determined and written demand therefor is made.

Section 10.6 Notices. All notices and other communications hereunder shall be in writing, shall reference this Agreement and shall be hand delivered or mailed by registered or certified mail (return receipt requested) to the Parties at the following addresses (or at such other addresses for a Party as shall be specified by like notice) and will be deemed given on the date on which such notice is received:

To PDL BioPharma, Inc.:

PDL BioPharma, Inc.
932 Southwood Boulevard
Incline Village, Nevada 89451
Attention: General Counsel

To LENSAR, Inc.:

LENSAR, Inc.
2800 Discovery Drive
Orlando, Florida 32826
Attention: General Counsel

Section 10.7 Waivers. The failure of any Party to require strict performance by any other Party of any provision in this Agreement will not waive or diminish that Party's right to demand strict performance thereafter of that or any other provision hereof.

Section 10.8 Amendments. Subject to the terms of Sections 10.11 and 10.13 hereof, this Agreement may not be modified or amended except by an agreement in writing signed by each of the Parties.

Section 10.9 Assignment. This Agreement shall not be assignable, in whole or in part, directly or indirectly, by any Party without the prior written consent of the other Party, and any attempt to assign any rights or obligations arising under this Agreement without such consent shall be void; provided, however, that either Party may assign this Agreement to a purchaser of all or substantially all of the properties and assets of such Party so long as such purchases expressly assumes, in a written instrument in form reasonably satisfactory to the non-assigning Party, the due and punctual performance or observance of every agreement and covenant of this Agreement on the part of the assigning Party to be performed or observed.

Section 10.10 Successors and Assigns. The provisions to this Agreement shall be binding upon, inure to the benefit of and be enforceable by the Parties and their respective successors and permitted assigns.

Section 10.11 Termination. This Agreement (including Article V hereof) may be terminated and the Distribution may be amended, modified or abandoned at any time prior to the Distribution by and in the sole discretion of PDL without the approval of LENSAR or the stockholders of PDL. In the event of such termination, no Party shall have any liability of any kind to any other Party or any other Person. After the Distribution, this Agreement may not be terminated except by an agreement in writing signed by the Parties; provided, however, that Article V shall not be terminated or amended after the Distribution in respect of a Third Party beneficiary thereto without the consent of such Person.

Section 10.12 Subsidiaries. Each of the Parties shall cause to be performed, and hereby guarantees the performance of, all actions, agreements and obligations set forth herein to be performed by any entity that is contemplated to be a Subsidiary of such Party after the Distribution Date.

Section 10.13 Third-Party Beneficiaries. Except (a) as provided in Section 3.12 for the release of any Person provided thereunder, (b) as provided in Article V relating to Indemnitees, and (c) as specifically provided in any Ancillary Agreement, this Agreement and the Ancillary Agreements are solely for the benefit of the Parties and their respective Subsidiaries and Affiliates and shall not be deemed to confer upon any other Person any remedy, claim, liability, reimbursement, cause of action or other right in excess of those existing without reference to this Agreement.

Section 10.14 Title and Headings. Titles and headings to Sections herein are inserted for convenience of reference only and are not intended to be a part of or to affect the meaning or interpretation of this Agreement.

Section 10.15 Schedules. The Schedules shall be construed with and as an integral part of this Agreement to the same extent as if the same had been set forth verbatim herein

Section 10.16 Governing Law. This Agreement shall be governed by and construed in accordance with the Laws of the State of Delaware applicable to Contracts made and to be performed in the state of Delaware.

Section 10.17 Waiver of Jury Trial. The Parties hereby irrevocably waive any and all right to trial by jury in any legal proceeding arising out of or related to this Agreement.

Section 10.18 Specific Performance. From and after the Distribution, in the event of any actual or threatened default in, or breach of, any of the terms, conditions and provisions of this Agreement, the Parties agree that the Party to this Agreement who is or is to be thereby aggrieved shall have the right to specific performance and injunctive or other equitable relief of its rights under this Agreement, in addition to any and all other rights and remedies at Law or in equity, and all such rights and remedies shall be cumulative. The Parties agree that, from and after the Distribution, the remedies at Law for any breach or threatened breach of this Agreement, including monetary damages, are inadequate compensation for any loss, that any defense in any action for specific performance that a remedy at Law would be adequate is hereby waived, and that any requirements for the securing or posting of any bond with such remedy are hereby waived.

Section 10.19 Severability. In the event any one or more of the provisions contained in this Agreement should be held invalid, illegal or unenforceable in any respect, the validity, legality and enforceability of the remaining provisions contained herein and therein shall not in any way be affected or impaired thereby. The Parties shall endeavor in good faith negotiations to replace the invalid, illegal or unenforceable provisions with valid provisions, the economic effect of which comes as close as possible to that of the invalid, illegal or unenforceable provisions.

[Signature Page Follows]

IN WITNESS WHEREOF, the Parties have caused this Agreement to be duly executed as of the day and year first above written.

PDL BioPharma, Inc.

By: /s/ Dominique Monnet

Name: Dominique Monnet

Title: President and Chief Executive Officer

LENSAR, Inc.

By: /s/ Nicholas Curtis

Name: Nicholas Curtis

Title: Chief Executive Officer

[Signature Page to Separation and Distribution Agreement]

**AMENDED AND RESTATED CERTIFICATE OF INCORPORATION
OF
LENSAR, INC.**

LENSAR, INC. (the "Corporation"), a corporation organized and existing under the General Corporation Law of the State of Delaware (the "DGCL"), does hereby certify as follows:

1. The name of the Corporation is LENSAR, Inc. The Corporation was incorporated under the name LaserSoft Vision, Inc. by the filing of its original Certificate of Incorporation with the Secretary of State of the State of Delaware on August 20, 2004.
2. This Amended and Restated Certificate of Incorporation (the "Restated Certificate"), which amends, restates and further integrates the certificate of incorporation of the Corporation as heretofore in effect, has been approved by the Board of Directors of the Corporation (the "Board of Directors") in accordance with Sections 242 and 245 of the DGCL, and has been adopted by the written consent of the stockholders of the Corporation in accordance with Section 228 of the DGCL.
3. The text of the certificate of incorporation of the Corporation, as heretofore amended, is hereby amended and restated by this Restated Certificate to read in its entirety as set forth in EXHIBIT A attached hereto.

IN WITNESS WHEREOF, LENSAR, Inc. has caused this Restated Certificate to be signed by a duly authorized office of the Corporation, on October 1, 2020.

LENSAR, Inc., a Delaware corporation

By: /s/ Nicholas Curtis

Name: Nicholas Curtis

Title: Chief Executive Officer

EXHIBIT A

ARTICLE I

The name of the corporation is LENSAR, Inc. (the "Corporation").

ARTICLE II

The address of the Corporation's registered office in the State of Delaware is 1209 Orange Street, Wilmington, County of New Castle, Delaware, 19801, and the name of its registered agent at such address is National Registered Agents, Inc.

ARTICLE III

The purpose of the Corporation is to engage in any lawful act or activity for which corporations may be organized under the General Corporation Law of the State of Delaware (the "DGCL") as it now exists or may hereafter be amended and supplemented.

ARTICLE IV

The Corporation is authorized to issue two classes of stock to be designated, respectively, "Common Stock" and "Preferred Stock." The total number of shares of capital stock which the Corporation shall have authority to issue is One Hundred Sixty Million (160,000,000). The total number of shares of Common Stock that the Corporation is authorized to issue is One Hundred Fifty Million (150,000,000), having a par value of \$0.01 per share, and the total number of shares of Preferred Stock that the corporation is authorized to issue is Ten Million (10,000,000), having a par value of \$0.01 per share.

ARTICLE V

The designations and the powers, privileges and rights, and the qualifications, limitations or restrictions thereof in respect of each class of capital stock of the Corporation are as follows:

A. COMMON STOCK.

1. General. The voting, dividend, liquidation, and other rights and powers of the Common Stock are subject to and qualified by the rights, powers and preferences of any series of Preferred Stock as may be designated by the Board of Directors of the Corporation (the "Board of Directors") and outstanding from time to time.

2. Voting. Except as otherwise provided herein or expressly required by law, each holder of Common Stock, as such, shall be entitled to vote on each matter submitted to a vote of stockholders and shall be entitled to one (1) vote for each share of Common Stock held of record by such holder as of the record date for determining stockholders entitled to vote on such matter. Except as otherwise required by law, holders of Common Stock, as such, shall not be entitled to vote on any amendment to this Restated Certificate (including any Certificate of Designation (as defined below)) that relates solely to the rights, powers, preferences (or the

qualifications, limitations or restrictions thereof) or other terms of one or more outstanding series of Preferred Stock if the holders of such affected series are entitled, either separately or together with the holders of one or more other such series, to vote thereon pursuant to this Restated Certificate (including any Certificate of Designation) or pursuant to the DGCL.

Subject to the rights of any holders of any outstanding series of Preferred Stock, the number of authorized shares of Common Stock may be increased or decreased (but not below the number of shares thereof then outstanding) by the affirmative vote of the holders of a majority of the stock of the Corporation entitled to vote, irrespective of the provisions of Section 242(b)(2) of the DGCL.

3. Dividends. Subject to applicable law and the rights and preferences of any holders of any outstanding series of Preferred Stock, the holders of Common Stock, as such, shall be entitled to the payment of dividends on the Common Stock when, as and if declared by the Board of Directors in accordance with applicable law.

4. Liquidation. Subject to the rights and preferences of any holders of any shares of any outstanding series of Preferred Stock, in the event of any liquidation, dissolution or winding up of the Corporation, whether voluntary or involuntary, the funds and assets of the Corporation that may be legally distributed to the Corporation's stockholders shall be distributed among the holders of the then outstanding Common Stock pro rata in accordance with the number of shares of Common Stock held by each such holder.

B. PREFERRED STOCK

Shares of Preferred Stock may be issued from time to time in one or more series, each of such series to have such terms as stated or expressed herein and in the resolution or resolutions providing for the creation and issuance of such series adopted by the Board of Directors as hereinafter provided.

Authority is hereby expressly granted to the Board of Directors from time to time to issue the Preferred Stock in one or more series, and in connection with the creation of any such series, by adopting a resolution or resolutions providing for the issuance of the shares thereof and by filing a certificate of designation relating thereto in accordance with the DGCL (a "Certificate of Designation"), to determine and fix the number of shares of such series and such voting powers, full or limited, or no voting powers, and such designations, preferences and relative participating, optional or other special rights, and qualifications, limitations or restrictions thereof, including without limitation thereof, dividend rights, conversion rights, redemption privileges and liquidation preferences, and to increase or decrease (but not below the number of shares of such series then outstanding) the number of shares of any series as shall be stated and expressed in such resolutions, all to the fullest extent now or hereafter permitted by the DGCL. Without limiting the generality of the foregoing, the resolution or resolutions providing for the creation and issuance of any series of Preferred Stock may provide that such series shall be superior or rank equally or be junior to any other series of Preferred Stock to the extent permitted by law and this Restated Certificate (including any Certificate of Designation). Except as otherwise required by law, holders of any series of Preferred Stock shall be entitled only to such voting rights, if any, as shall expressly be granted thereto by this Restated Certificate (including any Certificate of Designation).

The number of authorized shares of Preferred Stock may be increased or decreased (but not below the number of shares thereof then outstanding) by the affirmative vote of the holders of a majority of the stock of the Corporation entitled to vote, irrespective of the provisions of Section 242(b)(2) of the DGCL.

ARTICLE VI

For the management of the business and for the conduct of the affairs of the Corporation it is further provided that:

A. Subject to the special rights of the holders of one or more outstanding series of Preferred Stock to elect directors, the directors of the Corporation shall be classified with respect to the time for which they severally hold office into three classes, designated as Class I, Class II and Class III. The initial Class I directors shall serve for a term expiring at the first annual meeting of the stockholders following the initial registration of the Corporation's Common Stock pursuant to the Securities Exchange Act of 1934, as amended; the initial Class II directors shall serve for a term expiring at the second annual meeting of the stockholders following such registration; and the initial Class III directors shall serve for a term expiring at the third annual meeting following such registration. At each annual meeting of stockholders of the Corporation beginning with the first annual meeting of stockholders following the Effective Time, subject to any special rights of the holders of one or more outstanding series of Preferred Stock to elect directors, the successors of the class of directors whose term expires at that meeting shall be elected to hold office for a term expiring at the annual meeting of stockholders held in the third year following the year of their election. Each director shall hold office until his or her successor is duly elected and qualified or until his or her earlier death, resignation, disqualification or removal. No decrease in the number of directors shall shorten the term of any incumbent director. The Board is authorized to assign members of the Board already in office to Class I, Class II and Class III.

B. Except as otherwise expressly provided by the DGCL or this Restated Certificate, the business and affairs of the Corporation shall be managed by or under the direction of the Board of Directors. The number of directors which shall constitute the whole Board of Directors shall be fixed exclusively by one or more resolutions adopted from time to time by the Board of Directors.

C. Subject to the special rights of the holders of one or more outstanding series of Preferred Stock to elect directors, the Board of Directors or any individual director may be removed from office at any time, but only for cause and only by the affirmative vote of the holders of at least two-thirds of the voting power of all of the then outstanding shares of voting stock of the Corporation entitled to vote at an election of directors.

D. Subject to the special rights of the holders of one or more outstanding series of Preferred Stock to elect directors, except as otherwise provided by law, any vacancies on the Board of Directors resulting from death, resignation, disqualification, retirement, removal or

other causes and any newly created directorships resulting from any increase in the number of directors shall be filled exclusively by the affirmative vote of a majority of the directors then in office, even though less than a quorum, or by a sole remaining director (other than any directors elected by the separate vote of one or more outstanding series of Preferred Stock), and shall not be filled by the stockholders. Any director appointed in accordance with the preceding sentence shall hold office until the expiration of the term of the class to which such director shall have been appointed or until his or her earlier death, resignation, retirement, disqualification, or removal.

E. Whenever the holders of any one or more series of Preferred Stock issued by the Corporation shall have the right, voting separately as a series or separately as a class with one or more such other series, to elect directors at an annual or special meeting of stockholders, the election, term of office, removal and other features of such directorships shall be governed by the terms of this Certificate of Incorporation (including any Certificate of Designation). Notwithstanding anything to the contrary in this Article VI, the number of directors that may be elected by the holders of any such series of Preferred Stock shall be in addition to the number fixed pursuant to paragraph B of this Article VI, and the total number of directors constituting the whole Board shall be automatically adjusted accordingly. Except as otherwise provided in the Certificate of Designation(s) in respect of one or more series of Preferred Stock, whenever the holders of any series of Preferred Stock having such right to elect additional directors are divested of such right pursuant to the provisions of such Certificate of Designation(s), the terms of office of all such additional directors elected by the holders of such series of Preferred Stock, or elected to fill any vacancies resulting from the death, resignation, disqualification or removal of such additional directors, shall forthwith terminate (in which case each such director thereupon shall cease to be qualified as, and shall cease to be, a director) and the total authorized number of directors of the Corporation shall automatically be reduced accordingly.

F. In furtherance and not in limitation of the powers conferred by statute, the Board of Directors is expressly authorized to adopt, amend or repeal Bylaws of the Corporation. In addition to any vote of the holders of any class or series of stock of the Corporation required by applicable law or by this Certificate of Incorporation (including any Certificate of Designation in respect of one or more series of Preferred Stock) or the Bylaws of the Corporation, the adoption, amendment or repeal of the Bylaws of the Corporation by the stockholders of the Corporation shall require the affirmative vote of the holders of at least two-thirds of the voting power of all of the then outstanding shares of voting stock of the Corporation entitled to vote generally in an election of directors.

G. The directors of the Corporation need not be elected by written ballot unless the Bylaws so provide.

ARTICLE VII

A. Any action required or permitted to be taken by the stockholders of the Corporation must be effected at an annual or special meeting of the stockholders of the Corporation, and shall not be taken by written consent in lieu of a meeting. Notwithstanding the foregoing, any action required or permitted to be taken by the holders of any series of Preferred Stock, voting

separately as a series or separately as a class with one or more other such series, may be taken without a meeting, without prior notice and without a vote, to the extent expressly so provided by the applicable Certificate of Designation relating to such series of Preferred Stock, if a consent or consents in writing, setting forth the action so taken, shall be signed by the holders of outstanding shares of the relevant series of Preferred Stock 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 entitled to vote thereon were present and voted and shall be delivered to the Corporation in accordance with the applicable provisions of the DGCL.

B. Subject to the special rights of the holders of one or more series of Preferred Stock, special meetings of the stockholders of the Corporation may be called, for any purpose or purposes, at any time only by or at the direction of the Board of Directors, the Chairperson of the Board of Directors or the Chief Executive Officer, and shall not be called by any other person or persons.

C. Advance notice of stockholder nominations for the election of directors and of other business proposed to be brought by stockholders before any meeting of the stockholders of the Corporation shall be given in the manner provided in the Bylaws of the Corporation.

ARTICLE VIII

No director of the Corporation shall have any personal liability to the Corporation or its stockholders for monetary damages for any breach of fiduciary duty as a director, except to the extent such exemption from liability or limitation thereof is not permitted under the DGCL as the same exists or hereafter may be amended. Any amendment, repeal or modification of this Article VIII, or the adoption of any provision of the Restated Certificate inconsistent with this Article VIII, shall not adversely affect any right or protection of a director of the Corporation with respect to any act or omission occurring prior to such amendment, repeal, modification or adoption. If the DGCL is amended after approval by the stockholders of this Article VIII to authorize corporate action further eliminating or limiting the personal liability of directors, then the liability of a director of the Corporation shall be eliminated or limited to the fullest extent permitted by the DGCL as so amended.

ARTICLE IX

The Corporation shall have the power to provide rights to indemnification and advancement of expenses to its current and former officers, directors, employees and agents and to any person who is or was serving at the request of the Corporation as a director, officer, employee or agent of another corporation, partnership, joint venture, trust or other enterprise.

ARTICLE X

Unless the Corporation consents in writing to the selection of an alternative forum, the Court of Chancery of the State of Delaware shall, to the fullest extent permitted by law, be the sole and exclusive forum for (i) any derivative action or proceeding brought on behalf of the Corporation, (ii) any action asserting a claim of breach of a fiduciary duty owed by any director, officer, employee or agent of the Corporation to the Corporation or the Corporation's

stockholders, (iii) any action asserting a claim against the Corporation arising pursuant to any provision of the DGCL or this Restated Certificate or the Bylaws (as either may be amended from time to time) or as to which the DGCL confers jurisdiction to the Chancery Court, or (iv) any action asserting a claim against the Corporation governed by the internal affairs doctrine, in each such case subject to said Court of Chancery having personal jurisdiction over the indispensable parties named as defendants therein; provided that, if and only if the Chancery Court dismisses any such action for lack of subject matter jurisdiction, such action may be brought in another state or federal court sitting in the State of Delaware. Unless the Corporation consents in writing to the selection of an alternative forum, the federal district courts of the United States of America shall be the exclusive forum for the resolution of any complaint asserting a cause of action against the Corporation or any director, officer, employee or agent of the Corporation and arising under the Securities Act of 1933, as amended. Any person or entity purchasing or otherwise acquiring any interest in shares of capital stock of the Corporation shall be deemed to have notice of and consented to the provisions of this Article X. Notwithstanding the foregoing, the provisions of this Article X shall not apply to suits brought to enforce any liability or duty created by the Securities Exchange Act of 1934, as amended, or any other claim for which the federal courts of the United States have exclusive jurisdiction.

ARTICLE XI

A. Notwithstanding anything contained in this Restated Certificate to the contrary, in addition to any vote required by applicable law, the following provisions in this Restated Certificate may be amended, altered, repealed or rescinded, in whole or in part, or any provision inconsistent therewith or herewith may be adopted, only by the affirmative vote of the holders of at least 66 2/3% of the total voting power of all the then outstanding shares of stock of the Corporation entitled to vote thereon, voting together as a single class: Part B of Article V, Article VI, Article VII, Article VIII, Article IX, Article X, and this Article XI.

B. If any provision or provisions of this Restated Certificate shall be held to be invalid, illegal or unenforceable as applied to any circumstance for any reason whatsoever: (i) the validity, legality and enforceability of such provisions in any other circumstance and of the remaining provisions of this Restated Certificate (including, without limitation, each portion of any paragraph of this Restated Certificate containing any such provision held to be invalid, illegal or unenforceable that is not itself held to be invalid, illegal or unenforceable) shall not, to the fullest extent permitted by applicable law, in any way be affected or impaired thereby and (ii) to the fullest extent permitted by applicable law, the provisions of this Restated Certificate (including, without limitation, each such portion of any paragraph of this Restated Certificate containing any such provision held to be invalid, illegal or unenforceable) shall be construed so as to permit the Corporation to protect its directors, officers, employees and agents from personal liability in respect of their good faith service to or for the benefit of the Corporation to the fullest extent permitted by law.

AMENDED AND RESTATED BYLAWS OF
LENSAR, INC.
(a Delaware corporation)

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**AMENDED AND RESTATED BYLAWS OF
LENSAR, INC.**

Article I - Corporate Offices

1.1 Registered Office.

The address of the registered office of LENSAR, Inc. (the "Corporation") in the State of Delaware, and the name of its registered agent at such address, shall be as set forth in the Corporation's certificate of incorporation, as the same may be amended and/or restated from time to time (the "Certificate of Incorporation").

1.2 Other Offices.

The Corporation may have additional offices at any place or places, within or outside the State of Delaware, as the Corporation's board of directors (the "Board") may from time to time establish or as the business of the Corporation may require.

Article II - Meetings of Stockholders

2.1 Place of Meetings.

Meetings of stockholders shall be held at any place within or outside the State of Delaware, designated by the Board. The Board may, in its sole discretion, determine that a meeting of stockholders shall not be held at any place, but may instead be held solely by means of remote communication as authorized by Section 211(a)(2) of the General Corporation Law of the State of Delaware (the "DGCL"). In the absence of any such designation or determination, stockholders' meetings shall be held at the Corporation's principal executive office.

2.2 Annual Meeting.

The Board shall designate the date and time of the annual meeting. At the annual meeting, directors shall be elected and other proper business properly brought before the meeting in accordance with Section 2.4 of these bylaws may be transacted. The Board may postpone, reschedule or cancel any previously scheduled annual meeting of stockholders.

2.3 Special Meeting.

Special meetings of the stockholders may be called only by such persons and only in such manner as set forth in the Certificate of Incorporation.

No business may be transacted at any special meeting of stockholders other than the business specified in the notice of such meeting. The Board may postpone, reschedule or cancel any previously scheduled special meeting of stockholders.

2.4 Advance Notice Procedures for Business Brought before a Meeting.

(i) At an annual meeting of the stockholders, only such business shall be conducted as shall have been properly brought before the meeting. To be properly brought before an annual meeting, business must be (a) specified in a notice of meeting given by or at the direction of the Board, (b) if not specified in a notice of meeting, otherwise brought before the meeting by the Board or the person presiding over the meeting, or (c) otherwise properly brought before the meeting by a stockholder present in person who (A)(1) was a record owner of shares of the Corporation both at the time of giving the notice provided for in this Section 2.4 and at the time of the meeting, (2) is entitled to vote at the meeting and (3) has complied with this Section 2.4 in all applicable respects or (B) properly made such proposal in accordance with Rule 14a-8 under the Securities Exchange Act of 1934, as amended, and the rules and regulations thereunder (as so amended and inclusive of such rules and regulations, the “Exchange Act”), which proposal has been included in the proxy statement for the annual meeting. The foregoing clause (c) shall be the exclusive means for a stockholder to propose business to be brought before an annual meeting of the stockholders. The only matters that may be brought before a special meeting are the matters specified in the Corporation’s notice of meeting given by or at the direction of the person calling the meeting pursuant to the Certificate of Incorporation and Section 2.3 of these bylaws, and stockholders shall not be permitted to propose business to be brought before a special meeting of the stockholders. For purposes of this Section 2.4 and Section 2.5 of these bylaws, “present in person” shall mean that the stockholder proposing that the business be brought before the annual or special meeting of the Corporation, or, if the proposing stockholder is not an individual, a qualified representative of such proposing stockholder, appear at such annual meeting, and a “qualified representative” of such proposing stockholder shall be, if such proposing stockholder is (x) a general or limited partnership, any general partner or person who functions as a general partner of the general or limited partnership or who controls the general or limited partnership, (y) a corporation or a limited liability company, any officer or person who functions as an officer of the corporation or limited liability company or any officer, director, general partner or person who functions as an officer, director or general partner of any person ultimately in control of the corporation or limited liability company or (z) a trust, any trustee of such trust. This Section 2.4 shall apply to any business that may be brought before an annual or special meeting of stockholders other than nominations for election to the Board at an annual meeting, which shall be governed by Section 2.5 of these bylaws. Stockholders seeking to nominate persons for election to the Board must comply with Section 2.5 of these bylaws, and this Section 2.4 shall not be applicable to nominations for election to the Board except as expressly provided in Section 2.5 of these bylaws.

(ii) Without qualification, for business to be properly brought before an annual meeting by a stockholder, the stockholder must (a) provide Timely Notice (as defined below) thereof in writing and in proper form to the Secretary of the Corporation and (b) provide any updates or supplements to such notice at the times and in the forms required by this Section 2.4. To be timely, a stockholder’s notice must be delivered (personally or by courier service) or mailed and received at the principal executive offices of the Corporation not less than ninety (90) days nor more than one hundred twenty (120) days prior to the one-year anniversary of the preceding year’s annual meeting (which anniversary date, in the case of the first annual meeting of stockholders following the initial registration of the Corporation’s common stock pursuant to the Securities Exchange Act of 1934, as amended, shall be deemed to be [●], 2021); *provided, however*, that if the date of the annual meeting is more than thirty (30) days before or more than sixty (60) days after such anniversary date, notice by the stockholder to be timely must be so delivered, or mailed and received, not later than the ninetieth (90th) day prior to such annual meeting or, if later, the tenth (10th) day following the day on which public disclosure of the date of such annual meeting was first made (such notice within such time periods, “Timely Notice”). In no event shall any adjournment or postponement of an annual meeting or the announcement thereof commence a new time period for the giving of Timely Notice as described above.

(iii) To be in proper form for purposes of this Section 2.4, a stockholder's notice to the Secretary shall set forth:

(a) As to each Proposing Person (as defined below), (A) the name and address of such Proposing Person (including, if applicable, the name and address that appear on the Corporation's books and records); and (B) the number of shares of each class or series of stock of the Corporation that are, directly or indirectly, owned of record or beneficially owned (within the meaning of Rule 13d-3 under the Exchange Act) by such Proposing Person, except that such Proposing Person shall in all events be deemed to beneficially own any shares of any class or series of stock of the Corporation as to which such Proposing Person has a right to acquire beneficial ownership at any time in the future (the disclosures to be made pursuant to the foregoing clauses (A) and (B) are referred to as "Stockholder Information");

(b) As to each Proposing Person, (A) the full notional amount of any securities that, directly or indirectly, underlie any "derivative security" (as such term is defined in Rule 16a-1(c) under the Exchange Act) that constitutes a "call equivalent position" (as such term is defined in Rule 16a-1(b) under the Exchange Act) ("Synthetic Equity Position") and that is, directly or indirectly, held or maintained by such Proposing Person with respect to any shares of any class or series of stock of the Corporation; *provided* that, for the purposes of the definition of "Synthetic Equity Position," the term "derivative security" shall also include any security or instrument that would not otherwise constitute a "derivative security" as a result of any feature that would make any conversion, exercise or similar right or privilege of such security or instrument becoming determinable only at some future date or upon the happening of a future occurrence, in which case the determination of the amount of securities into which such security or instrument would be convertible or exercisable shall be made assuming that such security or instrument is immediately convertible or exercisable at the time of such determination; and, *provided, further*, that any Proposing Person satisfying the requirements of Rule 13d-1(b)(1) under the Exchange Act (other than a Proposing Person that so satisfies Rule 13d-1(b)(1) under the Exchange Act solely by reason of Rule 13d-1(b)(1)(ii)(E)) shall not be deemed to hold or maintain the notional amount of any securities that underlie a Synthetic Equity Position held by such Proposing Person as a hedge with respect to a bona fide derivatives trade or position of such Proposing Person arising in the ordinary course of such Proposing Person's business as a derivatives dealer, (B) any rights to dividends on the shares of any class or series of stock of the Corporation owned beneficially by such Proposing Person that are separated or separable from the underlying shares of the Corporation, (C) any material pending or threatened legal proceeding in which such Proposing Person is a party or material participant involving the Corporation or any of its officers or directors, or any affiliate of the Corporation, (D) any other material relationship between such Proposing Person, on the one hand, and the Corporation or any affiliate of the Corporation, on the other hand, (E) any direct or indirect material interest in any material contract or agreement of such Proposing Person with the Corporation or any affiliate of the Corporation (including, in any such case, any employment agreement, collective bargaining agreement or consulting agreement) and (F) any other information relating to such Proposing Person that would be required to be disclosed in a proxy statement or other filing required to be made in connection with solicitations of proxies or consents by such Proposing Person in support of the business proposed to be brought before the meeting pursuant to Section 14(a) of the Exchange Act (the disclosures to be made pursuant to the foregoing clauses (A) through (F) are referred to as "Disclosable Interests"); *provided, however*, that Disclosable Interests shall not include any such disclosures with respect to the

ordinary course business activities of any broker, dealer, commercial bank, trust company or other nominee who is a Proposing Person solely as a result of being the stockholder directed to prepare and submit the notice required by these bylaws on behalf of a beneficial owner; and

(c) As to each item of business that the stockholder proposes to bring before the annual meeting, (A) a brief description of the business desired to be brought before the annual meeting, the reasons for conducting such business at the annual meeting and any material interest in such business of each Proposing Person, (B) the text of the proposal or business (including the text of any resolutions proposed for consideration and in the event that such business includes a proposal to amend the bylaws, the language of the proposed amendment), (C) a reasonably detailed description of all agreements, arrangements and understandings (x) between or among any of the Proposing Persons or (y) between or among any Proposing Person and any other person (including their names) in connection with the proposal of such business by such stockholder and (D) any other information relating to such item of business that would be required to be disclosed in a proxy statement or other filing required to be made in connection with solicitations of proxies in support of the business proposed to be brought before the meeting pursuant to Section 14(a) of the Exchange Act; *provided, however*, that the disclosures required by this Section 2.4(iii) shall not include any disclosures with respect to any broker, dealer, commercial bank, trust company or other nominee who is a Proposing Person solely as a result of being the stockholder directed to prepare and submit the notice required by these bylaws on behalf of a beneficial owner.

(iv) For purposes of this Section 2.4, the term “Proposing Person” shall mean (a) the stockholder providing the notice of business proposed to be brought before an annual meeting, (b) the beneficial owner or beneficial owners, if different, on whose behalf the notice of the business proposed to be brought before the annual meeting is made, (c) any participant (as defined in paragraphs (a)(ii)-(vi) of Instruction 3 to Item 4 of Schedule 14A) with such stockholder in such solicitation [or (d) any associate (within the meaning of Rule 12b-2 under the Exchange Act for the purposes of these bylaws) of such stockholder, beneficial owner or any other participant].

(v) A Proposing Person shall update and supplement its notice to the Corporation of its intent to propose business at an annual meeting, if necessary, so that the information provided or required to be provided in such notice pursuant to this Section 2.4 shall be true and correct as of the record date for notice of the meeting and as of the date that is ten (10) business days prior to the meeting or any adjournment or postponement thereof, and such update and supplement shall be delivered (personally or by courier service) or mailed and received by the Secretary at the principal executive offices of the Corporation not later than five (5) business days after the record date for notice of the meeting (in the case of the update and supplement required to be made as of such record date), and not later than eight (8) business days prior to the date for the meeting or, if practicable, any adjournment or postponement thereof (and, if not practicable, on the first practicable date prior to the date to which the meeting has been adjourned or postponed) (in the case of the update and supplement required to be made as of ten (10) business days prior to the meeting or any adjournment or postponement thereof).

(vi) Notwithstanding anything in these bylaws to the contrary, no business shall be conducted at an annual meeting that is not properly brought before the meeting in accordance with this Section 2.4. The presiding officer of the meeting shall, if the facts warrant, determine that the business was not properly brought before the meeting in accordance with this Section 2.4, and if he or she should so determine, he or she shall so declare to the meeting and any such business not properly brought before the meeting shall not be transacted.

(vii) In addition to the requirements of this Section 2.4 with respect to any business proposed to be brought before an annual meeting, each Proposing Person shall comply with all applicable requirements of the Exchange Act with respect to any such business. Nothing in this Section 2.4 shall be deemed to affect the rights of stockholders to request inclusion of proposals in the Corporation's proxy statement pursuant to Rule 14a-8 under the Exchange Act.

(viii) For purposes of these bylaws, "public disclosure" shall mean disclosure in a press release reported by a national news service or in a document publicly filed by the Corporation with the Securities and Exchange Commission pursuant to Sections 13, 14 or 15(d) of the Exchange Act.

2.5 Advance Notice Procedures for Nominations of Directors.

(i) Nominations of any person for election to the Board at an annual meeting may be made at such meeting only (a) by or at the direction of the Board, including by any committee or persons authorized to do so by the Board or these bylaws, or (b) by a stockholder present in person (as defined in Section 2.4) (1) who was a beneficial owner of shares of the Corporation both at the time of giving the notice provided for in this Section 2.5 and at the time of the meeting, (2) is entitled to vote at the meeting and (3) has complied with this Section 2.5 as to such notice and nomination. The foregoing clause (b) shall be the exclusive means for a stockholder to make any nomination of a person or persons for election to the Board at any annual meeting of stockholders.

(ii) Without qualification, for a stockholder to make any nomination of a person or persons for election to the Board at an annual meeting, the stockholder must (a) provide Timely Notice (as defined in Section 2.4(ii) of these bylaws) thereof in writing and in proper form to the Secretary of the Corporation, (b) provide the information, agreements and questionnaires with respect to such stockholder and its candidate for nomination as required to be set forth by this Section 2.5, and (c) provide any updates or supplements to such notice at the times and in the forms required by this Section 2.5. In no event shall any adjournment or postponement of an annual meeting or the announcement thereof commence a new time period for the giving of a stockholder's notice as described above.

(iii) To be in proper form for purposes of this Section 2.5, a stockholder's notice to the Secretary shall set forth:

(a) As to each Nominating Person (as defined below), the Stockholder Information (as defined in Section 2.4(iii)(a) of these bylaws) except that for purposes of this Section 2.5, the term "Nominating Person" shall be substituted for the term "Proposing Person" in all places it appears in Section 2.4(iii)(a);

(b) As to each Nominating Person, any Disclosable Interests (as defined in Section 2.4(iii)(b), except that for purposes of this Section 2.5 the term "Nominating Person" shall be substituted for the term "Proposing Person" in all places it appears in Section 2.4(iii)(b) and the disclosure with respect to the business to be brought before the meeting in Section 2.4(iii)(c) shall be made with respect to nomination of each person for election as a director at the meeting); and

(c) As to each candidate whom a Nominating Person proposes to nominate for election as a director, (A) all information with respect to such candidate for nomination that would be required to be set forth in a stockholder's notice pursuant to this Section 2.5 if such candidate for nomination were a Nominating Person, (B) all information relating to such candidate for nomination that is required to be disclosed in a proxy statement or other filings required to be made in connection with solicitations of proxies for election of directors in a contested election pursuant to Section 14(a) under the Exchange Act (including such candidate's written consent to being named in the proxy statement as a nominee and to serving as a director if elected), (C) a description of any direct or indirect material interest in any material contract or agreement between or among any Nominating Person, on the one hand, and each candidate for nomination or his or her respective associates or any other participants in such solicitation, on the other hand, including, without limitation, all information that would be required to be disclosed pursuant to Item 404 under Regulation S-K if such Nominating Person were the "registrant" for purposes of such rule and the candidate for nomination were a director or executive officer of such registrant (the disclosures to be made pursuant to the foregoing clauses (A) through (C) are referred to as "Nominee Information"), and (D) a completed and signed questionnaire, representation and agreement as provided in Section 2.5(vi).

(iv) For purposes of this Section 2.5, the term "Nominating Person" shall mean (a) the stockholder providing the notice of the nomination proposed to be made at the meeting, (b) the beneficial owner or beneficial owners, if different, on whose behalf the notice of the nomination proposed to be made at the meeting is made, (c) any other participant in such solicitation and (d) any associate of such stockholder or beneficial owner or any other participant in such solicitation.

(v) A stockholder providing notice of any nomination proposed to be made at a meeting shall further update and supplement such notice, if necessary, so that the information provided or required to be provided in such notice pursuant to this Section 2.5 shall be true and correct as of the record date for stockholders entitled to vote at the meeting and as of the date that is ten (10) business days prior to the meeting or any adjournment or postponement thereof, and such update and supplement shall be delivered to, or mailed and received by, the Secretary at the principal executive offices of the Corporation not later than five (5) business days after the record date for stockholders entitled to vote at the meeting (in the case of the update and supplement required to be made as of such record date), and not later than eight (8) business days prior to the date for the meeting or, if practicable, any adjournment or postponement thereof (and, if not practicable, on the first practicable date prior to the date to which the meeting has been adjourned or postponed) (in the case of the update and supplement required to be made as of ten (10) business days prior to the meeting or any adjournment or postponement thereof).

(vi) To be eligible to be a candidate for election as a director of the Corporation at an annual meeting, a candidate must be nominated in the manner prescribed in this Section 2.5 and the candidate for nomination, whether nominated by the Board or by a stockholder of record, must have previously delivered (in accordance with the time period prescribed for delivery in a notice to such candidate given by or on behalf of the Board), to the Secretary at the principal executive offices of the Corporation, (a) a completed written questionnaire (in the form provided by the Corporation) with respect to the background, qualifications, stock ownership and independence of such candidate for nomination and (b) a written representation and agreement (in the form provided by the Corporation) that such candidate for nomination (A) is not, and will not become a party to, any agreement, arrangement or understanding with any person other than the Corporation with respect to any direct or indirect compensation or reimbursement for service as a director of the Corporation that has not

been disclosed therein and (B) if elected as a director of the Corporation, will comply with all applicable corporate governance, conflict of interest, confidentiality, stock ownership and trading and other policies and guidelines of the Corporation applicable to all directors and in effect during such person's term in office as a director (and, if requested by any candidate for nomination, the Secretary of the Corporation shall provide to such candidate for nomination all such policies and guidelines then in effect).

(vii) The Board may also require any proposed candidate for nomination as a Director to furnish such other information as may reasonably be requested by the Board in writing prior to the meeting of stockholders at which such candidate's nomination is to be acted upon in order for the Board to determine the eligibility of such candidate for nomination to be an independent director of the Corporation in accordance with the Corporation's Corporate Governance Guidelines.

(viii) In addition to the requirements of this Section 2.5 with respect to any nomination proposed to be made at a meeting, each Proposing Person shall comply with all applicable requirements of the Exchange Act with respect to any such nominations.

(ix) No candidate shall be eligible for nomination as a director of the Corporation unless such candidate for nomination and the Nominating Person seeking to place such candidate's name in nomination has complied with this Section 2.5, as applicable. The presiding officer at the meeting shall, if the facts warrant, determine that a nomination was not properly made in accordance with this Section 2.5, and if he or she should so determine, he or she shall so declare such determination to the meeting, the defective nomination shall be disregarded and any ballots cast for the candidate in question (but in the case of any form of ballot listing other qualified nominees, only the ballots cast for the nominee in question) shall be void and of no force or effect.

(x) Notwithstanding anything in these Bylaws to the contrary, no candidate for nomination shall be eligible to be seated as a director of the Corporation unless nominated and elected in accordance with this Section 2.5.

2.6 Notice of Stockholders' Meetings.

Unless otherwise provided by law, the Certificate of Incorporation or these bylaws, the notice of any meeting of stockholders shall be sent or otherwise given in accordance with Section 8.1 of these bylaws not less than ten (10) nor more than sixty (60) days before the date of the meeting to each stockholder entitled to vote at such meeting. The notice shall specify the place, if any, date and time of the meeting, the means of remote communication, if any, by which stockholders and proxy holders may be deemed to be present in person and vote at such meeting, and, in the case of a special meeting, the purpose or purposes for which the meeting is called.

2.7 Quorum.

Unless otherwise provided by law, the Certificate of Incorporation or these bylaws, the holders of a majority in voting power of the stock issued and outstanding and entitled to vote, present in person, or by remote communication, if applicable, or represented by proxy, shall constitute a quorum for the transaction of business at all meetings of the stockholders. A quorum, once established at a meeting, shall not be broken by the withdrawal of enough votes to leave less than a quorum. If, however, a quorum is not present or represented at any meeting of the stockholders, then either (i) the person presiding over the meeting or (ii) a majority in voting power of the stockholders entitled to vote at the meeting, present in person, or by remote communication, if

applicable, or represented by proxy, shall have power to recess the meeting or adjourn the meeting from time to time in the manner provided in Section 2.8 of these bylaws until a quorum is present or represented. At any recessed or adjourned meeting at which a quorum is present or represented, any business may be transacted that might have been transacted at the meeting as originally noticed.

2.8 Adjourned Meeting; Notice.

When a meeting is adjourned to another time or place, unless these bylaws otherwise require, notice need not be given of the adjourned meeting if the time, place, if any, thereof, and the means of remote communications, if any, by which stockholders and proxy holders may be deemed to be present in person and vote at such adjourned meeting are announced at the meeting at which the adjournment is taken. At any adjourned meeting, the Corporation may transact any business which might have been transacted at the original meeting. If the adjournment is for more than thirty (30) days, a notice of the adjourned meeting shall be given to each stockholder of record entitled to vote at the meeting. If after the adjournment a new record date for determination of stockholders entitled to vote is fixed for the adjourned meeting, the Board shall fix as the record date for determining stockholders entitled to notice of such adjourned meeting the same or an earlier date as that fixed for determination of stockholders entitled to vote at the adjourned meeting, and shall give notice of the adjourned meeting to each stockholder of record entitled to vote at such meeting as of the record date so fixed for notice of such adjourned meeting.

2.9 Conduct of Business.

The date and time of the opening and the closing of the polls for each matter upon which the stockholders will vote at a meeting shall be announced at the meeting by the person presiding over the meeting. The Board may adopt by resolution such rules and regulations for the conduct of the meeting of stockholders as it shall deem appropriate. Except to the extent inconsistent with such rules and regulations as adopted by the Board, the person presiding over any meeting of stockholders shall have the right and authority to convene and (for any or no reason) to recess and/or adjourn the meeting, to prescribe such rules, regulations and procedures (which need not be in writing) and to do all such acts as, in the judgment of such presiding person, are appropriate for the proper conduct of the meeting. Such rules, regulations or procedures, whether adopted by the Board or prescribed by the person presiding over the meeting, may include, without limitation, the following: (i) the establishment of an agenda or order of business for the meeting; (ii) rules and procedures for maintaining order at the meeting and the safety of those present (including, without limitation, rules and procedures for removal of disruptive persons from the meeting); (iii) limitations on attendance at or participation in the meeting to stockholders entitled to vote at the meeting, their duly authorized and constituted proxies or such other persons as the person presiding over the meeting shall determine; (iv) restrictions on entry to the meeting after the time fixed for the commencement thereof; and (v) limitations on the time allotted to questions or comments by participants. The presiding person at any meeting of stockholders, in addition to making any other determinations that may be appropriate to the conduct of the meeting (including, without limitation, determinations with respect to the administration and/or interpretation of any of the rules, regulations or procedures of the meeting, whether adopted by the Board or prescribed by the person presiding over the meeting), shall, if the facts warrant, determine and declare to the meeting that a matter of business was not properly brought before the meeting and if such presiding person should so determine, such presiding person shall so declare to the meeting and any such matter or business not properly brought before the meeting shall not be transacted or considered. Unless and to the extent determined by the Board or the person presiding over the meeting, meetings of stockholders shall not be required to be held in accordance with the rules of parliamentary procedure.

2.10 Voting.

Except as may be otherwise provided in the Certificate of Incorporation, these bylaws or the DGCL, each stockholder shall be entitled to one (1) vote for each share of capital stock held by such stockholder.

Except as otherwise provided by the Certificate of Incorporation, at all duly called or convened meetings of stockholders at which a quorum is present, for the election of directors, a plurality of the votes cast shall be sufficient to elect a director. Except as otherwise provided by the Certificate of Incorporation, these bylaws, the rules or regulations of any stock exchange applicable to the Corporation, or applicable law or pursuant to any regulation applicable to the Corporation or its securities, each other matter presented to the stockholders at a duly called or convened meeting at which a quorum is present shall be decided by the affirmative vote of the holders of a majority in voting power of the votes cast (excluding abstentions and broker non-votes) on such matter.

2.11 Record Date for Stockholder Meetings and Other Purposes.

In order that the Corporation may determine the stockholders entitled to notice of or to vote at any meeting of stockholders or any adjournment thereof, the Board may fix a record date, which record date shall not precede the date upon which the resolution fixing the record date is adopted by the Board, and which record date shall, unless otherwise required by law, not be more than sixty (60) days nor less than ten (10) days before the date of such meeting. If the Board so fixes a date, such date shall also be the record date for determining the stockholders entitled to vote at such meeting unless the Board determines, at the time it fixes such record date, that a later date on or before the date of the meeting shall be the date for making such determination. If no record date is fixed by the Board, the record date for determining stockholders entitled to notice of or to vote at a meeting of stockholders shall be the close of business on the next day preceding the day on which notice is first given, or, if notice is waived, at the close of business on the day next preceding the day on which the meeting is held. A determination of stockholders of record entitled to notice of or to vote at a meeting of stockholders shall apply to any adjournment of the meeting; provided, however, that the Board may fix a new record date for determination of stockholders entitled to vote at the adjourned meeting; and in such case shall also fix as the record date for stockholders entitled to notice of such adjourned meeting the same or an earlier date as that fixed for determination of stockholders entitled to vote in accordance herewith at the adjourned meeting.

In order that the Corporation may determine the stockholders entitled to receive payment of any dividend or other distribution or allotment or any rights or the stockholders entitled to exercise any rights in respect of any change, conversion or exchange of capital stock, or for the purposes of any other lawful action, the Board may fix a record date, which record date shall not precede the date upon which the resolution fixing the record date is adopted, and which record date shall be not more than sixty (60) days prior to such action. If no record date is fixed, the record date for determining stockholders for any such purpose shall be at the close of business on the day on which the Board adopts the resolution relating thereto.

2.12 Proxies.

Each stockholder entitled to vote at a meeting of stockholders may authorize another person or persons to act for such stockholder by proxy authorized by an instrument in writing or by a transmission permitted by law filed in accordance with the procedure established for the meeting, but no such proxy shall be voted or acted upon after three (3) years from its date, unless the proxy provides for a longer period. The revocability of a proxy that states on its face that it is irrevocable shall be governed by the provisions of Section 212 of the DGCL. A proxy may be in the form of an electronic transmission which sets forth or is submitted with information from which it can be determined that the transmission was authorized by the stockholder.

2.13 List of Stockholders Entitled to Vote.

The Corporation shall prepare, at least ten (10) days before every meeting of stockholders, a complete list of the stockholders entitled to vote at the meeting (provided, however, that if the record date for determining the stockholders entitled to vote is less than ten (10) days before the date of the meeting, the list shall reflect the stockholders entitled to vote as of the tenth day before the meeting date), arranged in alphabetical order, and showing the address of each stockholder and the number of shares registered in the name of each stockholder. The Corporation shall not be required to include electronic mail addresses or other electronic contact information on such list. Such list shall be open to the examination of any stockholder, for any purpose germane to the meeting for a period of at least ten (10) days prior to the meeting: (i) on a reasonably accessible electronic network, provided that the information required to gain access to such list is provided with the notice of the meeting, or (ii) during ordinary business hours, at the Corporation's principal executive office. In the event that the Corporation determines to make the list available on an electronic network, the Corporation may take reasonable steps to ensure that such information is available only to stockholders of the Corporation. If the meeting is to be held at a place, then the list shall be produced and kept at the time and place of the meeting during the whole time thereof, and may be inspected by any stockholder who is present. If the meeting is to be held solely by means of remote communication, then the list shall also be open to the examination of any stockholder during the whole time of the meeting on a reasonably accessible electronic network, and the information required to access such list shall be provided with the notice of the meeting. Such list shall presumptively determine the identity of the stockholders entitled to vote at the meeting and the number of shares held by each of them. Except as otherwise provided by law, the stock ledger shall be the only evidence as to who are the stockholders entitled to examine the list of stockholders required by this Section 2.13 or to vote in person or by proxy at any meeting of stockholders.

2.14 Inspectors of Election.

Before any meeting of stockholders, the Corporation shall appoint an inspector or inspectors of election to act at the meeting or its adjournment and make a written report thereof. The Corporation may designate one or more persons as alternate inspectors to replace any inspector who fails to act. If any person appointed as inspector or any alternate fails to appear or fails or refuses to act, then the person presiding over the meeting shall appoint a person to fill that vacancy.

Such inspectors shall:

(i) determine the number of shares outstanding and the voting power of each, the number of shares represented at the meeting and the validity of any proxies and ballots;

(ii) count all votes or ballots;

(iii) count and tabulate all votes;

(iv) determine and retain for a reasonable period a record of the disposition of any challenges made to any determination by the inspector(s); and

(v) certify its or their determination of the number of shares represented at the meeting and its or their count of all votes and ballots.

Each inspector, before entering upon the discharge of the duties of inspector, shall take and sign an oath faithfully to execute the duties of inspection with strict impartiality and according to the best of such inspector's ability. Any report or certificate made by the inspectors of election is prima facie evidence of the facts stated therein. The inspectors of election may appoint such persons to assist them in performing their duties as they determine.

2.15 Delivery to the Corporation.

Whenever this Article II requires one or more persons (including a record or beneficial owner of stock) to deliver a document or information to the Corporation or any officer, employee or agent thereof (including any notice, request, questionnaire, revocation, representation or other document or agreement), such document or information shall be in writing exclusively (and not in an electronic transmission) and shall be delivered exclusively by hand (including, without limitation, overnight courier service) or by certified or registered mail, return receipt requested, and the Corporation shall not be required to accept delivery of any document not in such written form or so delivered. For the avoidance of doubt, the Corporation expressly opts out of Section 116 of the DGCL with respect to the delivery of information and documents to the Corporation required by this Article II.

Article III - Directors

3.1 Powers.

Except as otherwise provided by the Certificate of Incorporation or the DGCL, the business and affairs of the Corporation shall be managed by or under the direction of the Board.

3.2 Number of Directors.

Subject to the Certificate of Incorporation, the total number of directors constituting the Board shall be determined from time to time by resolution of the Board. No reduction of the authorized number of directors shall have the effect of removing any director before that director's term of office expires.

3.3 Election, Qualification and Term of Office of Directors.

Except as provided in Section 3.4 of these bylaws, and subject to the Certificate of Incorporation, each director, including a director elected to fill a vacancy or newly created directorship, shall hold office until the expiration of the term of the class, if any, for which elected and until such director's successor is elected and qualified or until such director's earlier death, resignation, disqualification or removal. Directors need not be stockholders. The Certificate of Incorporation or these bylaws may prescribe qualifications for directors.

3.4 Resignation and Vacancies.

Any director may resign at any time upon notice given in writing or by electronic transmission to the Corporation. The resignation shall take effect at the time specified therein or upon the happening of an event specified therein, and if no time or event is specified, at the time of its receipt. When one or more directors so

resigns and the resignation is effective at a future date or upon the happening of an event to occur on a future date, a majority of the directors then in office, including those who have so resigned, shall have power to fill such vacancy or vacancies, the vote thereon to take effect when such resignation or resignations shall become effective, and each director so chosen shall hold office as provided in Section 3.3.

Unless otherwise provided in the Certificate of Incorporation or these bylaws, vacancies resulting from the death, resignation, disqualification or removal of any director, and newly created directorships resulting from any increase in the authorized number of directors, shall be filled only by a majority of the directors then in office, although less than a quorum, or by a sole remaining director.

3.5 Place of Meetings; Meetings by Telephone.

The Board may hold meetings, both regular and special, either within or outside the State of Delaware.

Unless otherwise restricted by the Certificate of Incorporation or these bylaws, members of the Board, or any committee designated by the Board, may participate in a meeting of the Board, or any committee, by means of conference telephone or other communications equipment by means of which all persons participating in the meeting can hear each other, and such participation in a meeting pursuant to this bylaw shall constitute presence in person at the meeting.

3.6 Regular Meetings.

Regular meetings of the Board may be held within or outside the State of Delaware and at such time and at such place as which has been designated by the Board and publicized among all directors, either orally or in writing, by telephone, including a voice-messaging system or other system designed to record and communicate messages, facsimile, telegraph or telex, or by electronic mail or other means of electronic transmission. No further notice shall be required for regular meetings of the Board.

3.7 Special Meetings; Notice.

Special meetings of the Board for any purpose or purposes may be called at any time by the chairperson of the Board, the Chief Executive Officer, the Secretary or a majority of the total number of directors constituting the Board.

Notice of the time and place of special meetings shall be:

- (i) delivered personally by hand, by courier or by telephone;
- (ii) sent by United States first-class mail, postage prepaid;
- (iii) sent by facsimile or electronic mail; or
- (iv) sent by other means of electronic transmission,

directed to each director at that director's address, telephone number, facsimile number or electronic mail address, or other address for electronic transmission, as the case may be, as shown on the Corporation's records.

If the notice is (i) delivered personally by hand, by courier or by telephone, (ii) sent by facsimile or electronic mail, or (iii) sent by other means of electronic transmission, it shall be delivered or sent at least twenty-four (24) hours before the time of the holding of the meeting. If the notice is sent by U.S. mail, it shall be deposited in the U.S. mail at least four (4) days before the time of the holding of the meeting. The notice need not specify the place of the meeting (if the meeting is to be held at the Corporation's principal executive office) nor the purpose of the meeting.

3.8 Quorum.

At all meetings of the Board, unless otherwise provided by the Certificate of Incorporation, a majority of the total number of directors shall constitute a quorum for the transaction of business. The vote of a majority of the directors present at any meeting at which a quorum is present shall be the act of the Board, except as may be otherwise specifically provided by statute, the Certificate of Incorporation or these bylaws. If a quorum is not present at any meeting of the Board, then the directors present thereat may adjourn the meeting from time to time, without notice other than announcement at the meeting, until a quorum is present.

3.9 Board Action without a Meeting.

Unless otherwise restricted by the Certificate of Incorporation or these bylaws, any action required or permitted to be taken at any meeting of the Board, or of any committee thereof, may be taken without a meeting if all members of the Board or committee, as the case may be, consent thereto in writing or by electronic transmission (including by electronic mail). After an action is taken, the consent or consents relating thereto shall be filed with the minutes of the proceedings of the Board, or the committee thereof, in the same paper or electronic form as the minutes are maintained. Such action by written consent or consent by electronic transmission shall have the same force and effect as a unanimous vote of the Board.

3.10 Fees and Compensation of Directors.

Unless otherwise restricted by the Certificate of Incorporation or these bylaws, the Board shall have the authority to fix the compensation, including fees and reimbursement of expenses, of directors for services to the Corporation in any capacity.

Article IV - Committees

4.1 Committees of Directors.

The Board may designate one (1) or more committees, each committee to consist, of one (1) or more of the directors of the Corporation. The Board may designate one (1) or more directors as alternate members of any committee, who may replace any absent or disqualified member at any meeting of the committee. In the absence or disqualification of a member of a committee, the member or members thereof present at any meeting and not disqualified from voting, whether or not such member or members constitute a quorum, may unanimously appoint another member of the Board to act at the meeting in the place of any such absent or disqualified member. Any such committee, to the extent provided in the resolution of the Board or in these bylaws, shall have and may exercise all the powers and authority of the Board in the management of the business and affairs of the Corporation, and may authorize the seal of the Corporation to be affixed to all papers that may require it; but no such committee shall have the power or authority to (i) approve or adopt, or recommend to the stockholders, any action or matter expressly required by the DGCL to be submitted to stockholders for approval, or (ii) adopt, amend or repeal any bylaw of the Corporation.

4.2 Committee Minutes.

Each committee shall keep regular minutes of its meetings and report the same to the Board when required.

4.3 Meetings and Actions of Committees.

Meetings and actions of committees shall be governed by, and held and taken in accordance with, the provisions of:

- (i) Section 3.5 (place of meetings; meetings by telephone);
- (ii) Section 3.6 (regular meetings);
- (iii) Section 3.7 (special meetings; notice);
- (iv) Section 3.9 (board action without a meeting); and
- (v) Section 7.13 (waiver of notice),

with such changes in the context of those bylaws as are necessary to substitute the committee and its members for the Board and its members. *However:*

- (i) the time of regular meetings of committees may be determined either by resolution of the Board or by resolution of the committee;
- (ii) special meetings of committees may also be called by resolution of the Board or the chairperson of the applicable committee; and
- (iii) the Board may adopt rules for the governance of any committee to override the provisions that would otherwise apply to the committee pursuant to this Section 4.3, provided that such rules do not violate the provisions of the Certificate of Incorporation or applicable law.

4.4 Subcommittees.

Unless otherwise provided in the Certificate of Incorporation, these bylaws or the resolutions of the Board designating the committee, a committee may create one (1) or more subcommittees, each subcommittee to consist of one (1) or more members of the committee, and delegate to a subcommittee any or all of the powers and authority of the committee.

Article V - Officers

5.1 Officers.

The officers of the Corporation shall include a Chief Executive Officer, a President, a Chief Financial Officer and a Secretary. The Corporation may also have, at the discretion of the Board, a Chairperson of the Board, a Vice Chairperson of the Board, a Treasurer, one (1) or more Vice Presidents, one (1) or more Assistant Vice Presidents, one (1) or more Assistant Treasurers, one (1) or more Assistant Secretaries, and any such other officers as may be appointed in accordance with the provisions of these bylaws. Any number of offices may be held by the same person. No officer need be a stockholder or director of the Corporation.

5.2 Appointment of Officers.

The Board shall appoint the officers of the Corporation, except such officers as may be appointed in accordance with the provisions of Section 5.3 of these bylaws.

5.3 Subordinate Officers.

The Board may appoint, or empower the Chief Executive Officer or, in the absence of a Chief Executive Officer, the President, to appoint, such other officers and agents as the business of the Corporation may require. Each of such officers and agents shall hold office for such period, have such authority, and perform such duties as are provided in these bylaws or as the Board may from time to time determine.

5.4 Removal and Resignation of Officers.

Subject to the rights, if any, of an officer under any contract of employment, any officer may be removed, either with or without cause, by the Board or by any officer upon whom such power of removal may be conferred by the Board.

Any officer may resign at any time by giving written notice to the Corporation. Any resignation shall take effect at the date of the receipt of that notice or at any later time specified in that notice. Unless otherwise specified in the notice of resignation, the acceptance of the resignation shall not be necessary to make it effective. Any resignation is without prejudice to the rights, if any, of the Corporation under any contract to which the officer is a party.

5.5 Vacancies in Offices.

Any vacancy occurring in any office of the Corporation shall be filled by the Board or as provided in Section 5.2.

5.6 Representation of Shares of Other Corporations.

The Chairperson of the Board, the Chief Executive Officer, or the President of this Corporation, or any other person authorized by the Board, the Chief Executive Officer or the President, is authorized to vote, represent and exercise on behalf of this Corporation all rights incident to any and all shares or voting securities of any other corporation or other person standing in the name of this Corporation. The authority granted herein may be exercised either by such person directly or by any other person authorized to do so by proxy or power of attorney duly executed by such person having the authority.

5.7 Authority and Duties of Officers.

All officers of the Corporation shall respectively have such authority and perform such duties in the management of the business of the Corporation as may be provided herein or designated from time to time by the Board and, to the extent not so provided, as generally pertain to their respective offices, subject to the control of the Board.

5.8 Compensation.

The compensation of the officers of the Corporation for their services as such shall be fixed from time to time by or at the direction of the Board. An officer of the Corporation shall not be prevented from receiving compensation by reason of the fact that he or she is also a director of the Corporation.

Article VI - Records

A stock ledger consisting of one or more records in which the names of all of the Corporation's stockholders of record, the address and number of shares registered in the name of each such stockholder, and all issuances and transfers of stock of the corporation are recorded in accordance with Section 224 of the DGCL shall be administered by or on behalf of the Corporation. Any records administered by or on behalf of the Corporation in the regular course of its business, including its stock ledger, books of account, and minute books, may be kept on, or by means of, or be in the form of, any information storage device, or method, or one or more electronic networks or databases (including one or more distributed electronic networks or databases), provided that the records so kept can be converted into clearly legible paper form within a reasonable time and, with respect to the stock ledger, that the records so kept (i) can be used to prepare the list of stockholders specified in Sections 219 and 220 of the DGCL, (ii) record the information specified in Sections 156, 159, 217(a) and 218 of the DGCL, and (iii) record transfers of stock as governed by Article 8 of the Uniform Commercial Code as adopted in the State of Delaware.

Article VII - General Matters

7.1 Execution of Corporate Contracts and Instruments.

The Board, except as otherwise provided in these bylaws, may authorize any officer or officers, or agent or agents, to enter into any contract or execute any instrument in the name of and on behalf of the Corporation; such authority may be general or confined to specific instances.

7.2 Stock Certificates.

The shares of the Corporation shall be represented by certificates, provided that the Board by resolution may provide that some or all of the shares of any class or series of stock of the Corporation shall be uncertificated. Certificates for the shares of stock, if any, shall be in such form as is consistent with the Certificate of Incorporation and applicable law. Every holder of stock represented by a certificate shall be entitled to have a certificate signed by, or in the name of the Corporation by, any two officers authorized to sign stock certificates representing the number of shares registered in certificate form. [The Chairperson of the Board, the Chief Executive Officer, the President, the Chief Financial Officer, or the Secretary of the Corporation] shall be specifically authorized to sign stock certificates. Any or all of the signatures on the

certificate may be a facsimile. In case any officer, transfer agent or registrar who has signed or whose facsimile signature has been placed upon a certificate has ceased to be such officer, transfer agent or registrar before such certificate is issued, it may be issued by the Corporation with the same effect as if he or she were such officer, transfer agent or registrar at the date of issue.

The Corporation may issue the whole or any part of its shares as partly paid and subject to call for the remainder of the consideration to be paid therefor. Upon the face or back of each stock certificate issued to represent any such partly paid shares, or upon the books and records of the Corporation in the case of uncertificated partly paid shares, the total amount of the consideration to be paid therefor and the amount paid thereon shall be stated. Upon the declaration of any dividend on fully paid shares, the Corporation shall declare a dividend upon partly paid shares of the same class, but only upon the basis of the percentage of the consideration actually paid thereon.

7.3 Special Designation of Certificates.

If the Corporation is authorized to issue more than one class of stock or more than one series of any class, then the powers, the designations, the preferences and the relative, participating, optional or other special rights of each class of stock or series thereof and the qualifications, limitations or restrictions of such preferences and/or rights shall be set forth in full or summarized on the face or on the back of the certificate that the Corporation shall issue to represent such class or series of stock (or, in the case of uncertificated shares, set forth in a notice provided pursuant to Section 151 of the DGCL); *provided, however*, that except as otherwise provided in Section 202 of the DGCL, in lieu of the foregoing requirements, there may be set forth on the face or back of the certificate that the Corporation shall issue to represent such class or series of stock (or, in the case of any uncertificated shares, included in the aforementioned notice) a statement that the Corporation will furnish without charge to each stockholder who so requests the powers, the designations, the preferences and the relative, participating, optional or other special rights of each class of stock or series thereof and the qualifications, limitations or restrictions of such preferences and/or rights.

7.4 Lost Certificates.

Except as provided in this Section 7.4, no new certificates for shares shall be issued to replace a previously issued certificate unless the latter is surrendered to the Corporation and cancelled at the same time. The Corporation may issue a new certificate of stock or uncertificated shares in the place of any certificate theretofore issued by it, alleged to have been lost, stolen or destroyed, and the Corporation may require the owner of the lost, stolen or destroyed certificate, or such owner's legal representative, to give the Corporation a bond sufficient to indemnify it against any claim that may be made against it on account of the alleged loss, theft or destruction of any such certificate or the issuance of such new certificate or uncertificated shares.

7.5 Shares Without Certificates

The Corporation may adopt a system of issuance, recordation and transfer of its shares of stock by electronic or other means not involving the issuance of certificates, provided the use of such system by the Corporation is permitted in accordance with applicable law.

7.6 Construction; Definitions.

Unless the context requires otherwise, the general provisions, rules of construction and definitions in the DGCL shall govern the construction of these bylaws. Without limiting the generality of this provision, the singular number includes the plural and the plural number includes the singular.

7.7 Dividends.

The Board, subject to any restrictions contained in either (i) the DGCL or (ii) the Certificate of Incorporation, may declare and pay dividends upon the shares of its capital stock. Dividends may be paid in cash, in property or in shares of the Corporation's capital stock.

The Board may set apart out of any of the funds of the Corporation available for dividends a reserve or reserves for any proper purpose and may abolish any such reserve. Such purposes shall include but not be limited to equalizing dividends, repairing or maintaining any property of the Corporation, and meeting contingencies.

7.8 Fiscal Year.

The fiscal year of the Corporation shall be fixed by resolution of the Board and may be changed by the Board.

7.9 Seal.

The Corporation may adopt a corporate seal, which shall be adopted and which may be altered by the Board. The Corporation may use the corporate seal by causing it or a facsimile thereof to be impressed or affixed or in any other manner reproduced.

7.10 Transfer of Stock.

Shares of the Corporation shall be transferable in the manner prescribed by law and in these bylaws. Shares of stock of the Corporation shall be transferred on the books of the Corporation only by the holder of record thereof or by such holder's attorney duly authorized in writing, upon surrender to the Corporation of the certificate or certificates representing such shares endorsed by the appropriate person or persons (or by delivery of duly executed instructions with respect to uncertificated shares), with such evidence of the authenticity of such endorsement or execution, transfer, authorization and other matters as the Corporation may reasonably require, and accompanied by all necessary stock transfer stamps. No transfer of stock shall be valid as against the Corporation for any purpose until it shall have been entered in the stock records of the Corporation by an entry showing the names of the persons from and to whom it was transferred.

7.11 Stock Transfer Agreements.

The Corporation shall have power to enter into and perform any agreement with any number of stockholders of any one or more classes or series of stock of the Corporation to restrict the transfer of shares of stock of the Corporation of any one or more classes owned by such stockholders in any manner not prohibited by the DGCL.

7.12 Registered Stockholders.

The Corporation:

(i) shall be entitled to recognize the exclusive right of a person registered on its books as the owner of shares to receive dividends and to vote as such owner; and

(ii) shall not be bound to recognize any equitable or other claim to or interest in such share or shares on the part of another person, whether or not it shall have express or other notice thereof, except as otherwise provided by the laws of the State of Delaware.

7.13 Waiver of Notice.

Whenever notice is required to be given under any provision of the DGCL, the Certificate of Incorporation or these bylaws, a written waiver, signed by the person entitled to notice, or a waiver by electronic transmission by the person entitled to notice, whether before or after the time of the event for which notice is to be given, shall be deemed equivalent to notice. Attendance of a person at a meeting shall constitute a waiver of notice of such meeting, except when the person attends a meeting for the express purpose of objecting at the beginning of the meeting, to the transaction of any business because the meeting is not lawfully called or convened. Neither the business to be transacted at, nor the purpose of, any regular or special meeting of the stockholders need be specified in any written waiver of notice or any waiver by electronic transmission unless so required by the Certificate of Incorporation or these bylaws.

Article VIII - Notice

8.1 Delivery of Notice; Notice by Electronic Transmission.

Without limiting the manner by which notice otherwise may be given effectively to stockholders, any notice to stockholders given by the Corporation under any provisions of the DGCL, the Certificate of Incorporation, or these bylaws may be given in writing directed to the stockholder's mailing address (or by electronic transmission directed to the stockholder's electronic mail address, as applicable) as it appears on the records of the Corporation and shall be given (1) if mailed, when the notice is deposited in the U.S. mail, postage prepaid, (2) if delivered by courier service, the earlier of when the notice is received or left at such stockholder's address or (3) if given by electronic mail, when directed to such stockholder's electronic mail address unless the stockholder has notified the Corporation in writing or by electronic transmission of an objection to receiving notice by electronic mail. A notice by electronic mail must include a prominent legend that the communication is an important notice regarding the Corporation.

Without limiting the manner by which notice otherwise may be given effectively to stockholders, any notice to stockholders given by the Corporation under any provision of the DGCL, the Certificate of Incorporation or these bylaws shall be effective if given by a form of electronic transmission consented to by the stockholder to whom the notice is given. Any such consent shall be revocable by the stockholder by written notice or electronic transmission to the Corporation. Notwithstanding the provisions of this paragraph, the Corporation may give a notice by electronic mail in accordance with the first paragraph of this section without obtaining the consent required by this paragraph.

Any notice given pursuant to the preceding paragraph shall be deemed given:

- (i) if by facsimile telecommunication, when directed to a number at which the stockholder has consented to receive notice;
- (ii) if by a posting on an electronic network together with separate notice to the stockholder of such specific posting, upon the later of (A) such posting and (B) the giving of such separate notice; and
- (iii) if by any other form of electronic transmission, when directed to the stockholder.

Notwithstanding the foregoing, a notice may not be given by an electronic transmission from and after the time that (1) the Corporation is unable to deliver by such electronic transmission two (2) consecutive notices given by the Corporation and (2) such inability becomes known to the Secretary or an Assistant Secretary of the Corporation or to the transfer agent, or other person responsible for the giving of notice, provided, however, the inadvertent failure to discover such inability shall not invalidate any meeting or other action.

An affidavit of the Secretary or an Assistant Secretary or of the transfer agent or other agent of the Corporation that the notice has been given shall, in the absence of fraud, be prima facie evidence of the facts stated therein.

Article IX - Indemnification

9.1 Indemnification of Directors and Officers.

The Corporation shall indemnify and hold harmless, to the fullest extent permitted by the DGCL as it presently exists or may hereafter be amended, any director or officer of the Corporation who was or is made or is threatened to be made a party or is otherwise involved in any action, suit or proceeding, whether civil, criminal, administrative or investigative (a "Proceeding") by reason of the fact that he or she, or a person for whom he or she is the legal representative, is or was a director or officer of the Corporation or, while serving as a director or officer of the Corporation, is or was serving at the request of the Corporation as a director, officer, employee or agent of another corporation or of a partnership (a "covered person"), joint venture, trust, enterprise or non-profit entity, including service with respect to employee benefit plans, against all liability and loss suffered and expenses (including attorneys' fees, judgments, fines ERISA excise taxes or penalties and amounts paid in settlement) reasonably incurred by such person in connection with any such Proceeding. Notwithstanding the preceding sentence, except as otherwise provided in Section 9.4, the Corporation shall be required to indemnify a person in connection with a Proceeding initiated by such person only if the Proceeding was authorized in the specific case by the Board.

9.2 Indemnification of Others.

The Corporation shall have the power to indemnify and hold harmless, to the fullest extent permitted by applicable law as it presently exists or may hereafter be amended, any employee or agent of the Corporation who was or is made or is threatened to be made a party or is otherwise involved in any Proceeding by reason of the fact that he or she, or a person for whom he or she is the legal representative, is or was an employee or agent of the Corporation or is or was serving at the request of the Corporation as a director, officer, employee or agent of another corporation or of a partnership, joint venture, trust, enterprise or non-profit entity, including service with respect to employee benefit plans, against all liability and loss suffered and expenses reasonably incurred by such person in connection with any such Proceeding.

9.3 Prepayment of Expenses.

The Corporation shall to the fullest extent not prohibited by applicable law pay the expenses (including attorneys' fees) incurred by any covered person, and may pay the expenses incurred by any employee or agent of the Corporation, in defending any Proceeding in advance of its final disposition; *provided, however*, that such payment of expenses in advance of the final disposition of the Proceeding shall be made only upon receipt of an undertaking by the person to repay all amounts advanced if it should be ultimately determined that the person is not entitled to be indemnified under this Article IX or otherwise.

9.4 Determination; Claim.

If a claim for indemnification (following the final disposition of such Proceeding) under this Article IX is not paid in full within sixty (60) days, or a claim for advancement of expenses under this Article IX is not paid in full within thirty (30) days, after a written claim therefor has been received by the Corporation the claimant may thereafter (but not before) file suit to recover the unpaid amount of such claim and, if successful in whole or in part, shall be entitled to be paid the expense of prosecuting such claim to the fullest extent permitted by law. In any such action the Corporation shall have the burden of proving that the claimant was not entitled to the requested indemnification or payment of expenses under applicable law.

9.5 Non-Exclusivity of Rights.

The rights conferred on any person by this Article IX shall not be exclusive of any other rights which such person may have or hereafter acquire under any statute, provision of the Certificate of Incorporation, these bylaws, agreement, vote of stockholders or disinterested directors or otherwise.

9.6 Insurance.

The Corporation may purchase and maintain insurance on behalf of any person who is or was a director, officer, employee or agent of the Corporation, or is or was serving at the request of the Corporation as a director, officer, employee or agent of another corporation, partnership, joint venture, trust enterprise or non-profit entity against any liability asserted against him or her and incurred by him or her in any such capacity, or arising out of his or her status as such, whether or not the Corporation would have the power to indemnify him or her against such liability under the provisions of the DGCL.

9.7 Other Indemnification.

The Corporation's obligation, if any, to indemnify or advance expenses to any person who was or is serving at its request as a director, officer, employee or agent of another corporation, partnership, joint venture, trust, enterprise or non-profit entity shall be reduced by any amount such person may collect as indemnification or advancement of expenses from such other corporation, partnership, joint venture, trust, enterprise or non-profit enterprise.

9.8 Continuation of Indemnification.

The rights to indemnification and to prepayment of expenses provided by, or granted pursuant to, this Article IX shall continue notwithstanding that the person has ceased to be a director or officer of the Corporation and shall inure to the benefit of the estate, heirs, executors, administrators, legatees and distributees of such person.

9.9 Amendment or Repeal; Interpretation.

The provisions of this Article IX shall constitute a contract between the Corporation, on the one hand, and, on the other hand, each individual who serves or has served as a director or officer of the Corporation (whether before or after the adoption of these bylaws), in consideration of such person's performance of such services, and pursuant to this Article IX the Corporation intends to be legally bound to each such current or former director or officer of the Corporation. With respect to current and former directors and officers of the Corporation, the rights conferred under this Article IX are present contractual rights and such rights are fully vested, and shall be deemed to have vested fully, immediately upon adoption of these bylaws. With respect to any directors or officers of the Corporation who commence service following adoption of these bylaws, the rights conferred under this provision shall be present contractual rights and such rights shall fully vest, and be deemed to have vested fully, immediately upon such director or officer commencing service as a director or officer of the Corporation. Any repeal or modification of the foregoing provisions of this Article IX shall not adversely affect any right or protection (i) hereunder of any person in respect of any act or omission occurring prior to the time of such repeal or modification or (ii) under any agreement providing for indemnification or advancement of expenses to an officer or director of the Corporation in effect prior to the time of such repeal or modification.

Any reference to an officer of the Corporation in this Article IX shall be deemed to refer exclusively to the Chief Executive Officer, President, and Secretary, or other officer of the Corporation appointed by (x) the Board pursuant to Article V of these bylaws or (y) an officer to whom the Board has delegated the power to appoint officers pursuant to Article V of these bylaws, and any reference to an officer of any other corporation, partnership, joint venture, trust, employee benefit plan or other enterprise shall be deemed to refer exclusively to an officer appointed by the board of directors (or equivalent governing body) of such other entity pursuant to the certificate of incorporation and bylaws (or equivalent organizational documents) of such other corporation, partnership, joint venture, trust, employee benefit plan or other enterprise. The fact that any person who is or was an employee of the Corporation or an employee of any other corporation, partnership, joint venture, trust, employee benefit plan or other enterprise has been given or has used the title of "Vice President" or any other title that could be construed to suggest or imply that such person is or may be an officer of the Corporation or of such other corporation, partnership, joint venture, trust, employee benefit plan or other enterprise shall not result in such person being constituted as, or being deemed to be, an officer of the Corporation or of such other corporation, partnership, joint venture, trust, employee benefit plan or other enterprise for purposes of this Article IX.

Article X - Amendments

The Board is expressly empowered to adopt, amend or repeal the bylaws of the Corporation. The stockholders also shall have power to adopt, amend or repeal the bylaws of the Corporation; *provided, however*, that such action by stockholders shall require, in addition to any other vote required by the Certificate of Incorporation or applicable law, the affirmative vote of the holders of at least two-thirds of the voting power of all the then-outstanding shares of voting stock of the Corporation with the power to vote generally in an election of directors, voting together as a single class.

Article XI - Definitions

As used in these bylaws, unless the context otherwise requires, the following terms shall have the following meanings:

An “electronic transmission” means any form of communication, not directly involving the physical transmission of paper, including the use of, or participation in, one or more electronic networks or databases (including one or more distributed electronic networks or databases), that creates a record that may be retained, retrieved and reviewed by a recipient thereof, and that may be directly reproduced in paper form by such a recipient through an automated process.

An “electronic mail” means an electronic transmission directed to a unique electronic mail address (which electronic mail shall be deemed to include any files attached thereto and any information hyperlinked to a website if such electronic mail includes the contact information of an officer or agent of the Corporation who is available to assist with accessing such files and information).

An “electronic mail address” means a destination, commonly expressed as a string of characters, consisting of a unique user name or mailbox (commonly referred to as the “local part” of the address) and a reference to an internet domain (commonly referred to as the “domain part” of the address), whether or not displayed, to which electronic mail can be sent or delivered.

The term “person” means any individual, general partnership, limited partnership, limited liability company, corporation, trust, business trust, joint stock company, joint venture, unincorporated association, cooperative or association or any other legal entity or organization of whatever nature, and shall include any successor (by merger or otherwise) of such entity.

LENSAR, INC.

Certificate of Amendment and Restatement of Bylaws

The undersigned hereby certifies that he is the duly elected, qualified, and acting Secretary of LENSAR, Inc., a Delaware corporation (the "Corporation"), and that the foregoing bylaws were approved on August 21, 2020, effective as of October 1, 2020 by the Corporation's board of directors.

IN WITNESS WHEREOF, the undersigned has hereunto set his hand this 30th day of September, 2020.

/s/ Nicholas Curtis

Nicholas Curtis

Chief Executive Officer

TRANSITION SERVICES AGREEMENT

THIS TRANSITION SERVICES AGREEMENT (this "Agreement") is made and entered into as of September 30, 2020, by and between PDL BioPharma, Inc., a Delaware corporation ("PDL") and LENSAR, Inc., a Delaware corporation ("LENSAR"). PDL and LENSAR are referred to herein individually as a "Party", and collectively as the "Parties."

RECITALS

WHEREAS, PDL and LENSAR have entered into that certain Separation and Distribution Agreement, dated September 30, 2020 (the "Separation Agreement"), pursuant to which the business of LENSAR and the LENSAR Subsidiaries (the "Acquired Business") will be separated from the remaining businesses of PDL (the "Retained Business"); and

WHEREAS, to facilitate the transactions contemplated by the Separation Agreement, the Parties deem it to be appropriate and in their best interests that each Party and its Affiliates provide certain services to the other Party on a transitional basis pursuant to the terms and conditions set forth herein.

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

**ARTICLE I
DEFINITIONS**

Section 1.1 Definitions. With respect to any Service (as defined below), the Party that is, or whose Subsidiary is, receiving such Service is referred to as the "Recipient" and the Party providing such Service is referred to as the "Provider." The Acquired Business or the Retained Business may sometimes be referred to herein as the applicable Recipient's "Business." Other capitalized terms used but not defined herein shall have the meanings assigned thereto in the Separation Agreement. In the case of capitalized terms defined herein by definitions inconsistent with the definitions ascribed to such terms in the Separation Agreement, the definitions provided herein shall control for the purposes of this Agreement.

**ARTICLE II
SERVICES****Section 2.1 Transition Services.**

(a) On the terms and subject to the conditions of this Agreement, PDL shall provide the transition services to the Acquired Business as set forth in Exhibit A and LENSAR shall provide the transition services to the Retained Business as set forth in Exhibit B (collectively, the "Transition Services").

(b) The Transition Services provided under this Agreement will be provided at a substantially similar level (type, frequency, quality, timeliness) and in a substantially similar manner as such services were performed by the Retained Business for the benefit of the

Acquired Business or by the Acquired Business for the benefit of the Retained Business, in each case over the twelve (12) month period immediately prior to the Distribution Date (the “Reference Period”).

(c) Provider may perform its obligations through its Affiliates and/or Persons that are unaffiliated with any Party (each, a “Third Party”); provided that Provider shall not be relieved of its obligations under this Agreement by use of such Affiliates and/or Third Parties and shall be responsible for compliance with the terms hereof by such Affiliates and/or Third Parties.

(d) Without limiting Provider’s obligations pursuant to Section 2.1(b) or otherwise under this Agreement, Recipient acknowledges that Provider may be providing similar services and/or services that involve the same resources as those used to provide the Transition Services to its other businesses, Affiliates and/or Third Parties.

(e) Provider may suspend any or all of the Transition Services to the extent and for the period it determines in good faith that the provision of such Transition Service(s) hereunder would violate any Law applicable to Provider. If Provider becomes aware of any such actual or potential violation, Provider shall promptly notify Recipient in writing of such violation and the Parties shall work together in good faith to seek and implement a reasonable alternative arrangement that resolves such violation, including provision of the applicable Transition Service through a Third Party. For the avoidance of doubt, Recipient shall not be obligated to pay any Fees (as defined below) or costs in connection with any such suspended Transition Services during the period such services are not provided (other than Fees and reimbursable costs owed for such Transition Services rendered by but not paid for prior to such suspension).

(f) Recipient acknowledges and agrees that Provider is not in the business of providing services and that the Transition Services will be provided by Provider to Recipient in connection with, and in order to facilitate, the Spin-Off. This Agreement is not intended by the Parties to have Provider manage and operate the Recipient’s Business or to have any fiduciary duties with respect to Recipient or the Recipient’s Business.

Section 2.2 Omitted Transition Services. If Recipient reasonably determines that there are additional services that were provided by Provider to the Recipient’s Business during the Reference Period and are necessary to conduct the Recipient’s Business but were not included in the Transition Services set forth in Exhibit A or Exhibit B, as applicable (each such service an “Omitted Transition Service”), then Recipient may provide written notice thereof to Provider requesting such additional services. Upon receipt of such a notice by Provider, the Parties shall negotiate in good faith an amendment to Exhibit A or Exhibit B, as applicable, setting forth the Omitted Transition Service, the terms and conditions for the provision of such Omitted Transition Service, the duration for such Omitted Transition Service, and the Fees payable by Recipient for such Omitted Transition Service, all of which shall be commercially reasonable and pursuant to which such Omitted Transition Service shall become a “Transition Service” for all purposes of this Agreement.

Section 2.3 Additional Services. Recipient may request that Provider provide any additional service that does not qualify as an Omitted Transition Service (each, an “Additional Service”), provided that the Provider shall have no obligation to provide such Additional Service

and, if Provider tentatively agrees to provide such Additional Service, such service shall be conditioned on the Parties reaching mutual agreement with respect to the terms and conditions for the provision of such Additional Service (including the duration) and the Fees payable by Recipient for such service. If the Parties mutually agree on such terms and conditions and Fees, such Additional Service shall become a "Transition Service" for all purposes of this Agreement.

Section 2.4 Consents.

(a) At Recipient's sole cost and expense, Provider and Recipient shall, and Provider shall cause its Affiliates to, cooperate and exercise commercially reasonable efforts to obtain (i) all consents, approvals or authorizations (the "Consents") for any necessary software or other Intellectual Property that is not owned by Provider or its Affiliates or otherwise not allowed to be used by or transferred to unaffiliated entities and is related to the provision of the Transition Services sufficient to enable Provider, its Affiliate or a Third Party to perform the Transition Services in accordance with this Agreement and (ii) all other Consents to allow Provider to provide the Transition Services and to allow Recipient to access and use the Transition Services (collectively, the "Required Consents").

(b) In the event that any Required Consent is not obtained, then, unless and until such Required Consent is obtained, the Parties shall cooperate with each other in achieving a reasonable alternative arrangement for Recipient to continue to operate the Recipient's Business and for Provider to perform Transition Services (if possible), in each case, in a manner that does not increase the costs to Provider in providing such Transition Services. Any cost or expense incurred in connection with obtaining a Required Consent or achieving a reasonable alternative arrangement shall be the responsibility of Recipient.

Section 2.5 Standard for Transition Services. In addition to the standards set forth in Section 2.1(b), Provider shall at all times perform the Transition Services with reasonable care and in compliance with applicable Laws in all material respects.

Section 2.6 Provision of Services.

(a) Employment and Supervision. Provider shall have the sole responsibility to employ, pay, supervise, direct and discharge all of its personnel, and to supervise and direct its Affiliates and Third Parties, used in its provision of Transition Services hereunder. Provider shall be solely responsible for the payment of all employee benefits and any other direct and indirect compensation for any of its personnel assigned to perform services under this Agreement, as well as such personnel's worker's compensation insurance, employment taxes and other employer liabilities relating to such personnel as required by Law.

(b) Independence. Each of Provider and Recipient acknowledges that they are separate entities, each of which has entered into this Agreement for independent business reasons. Provider shall be an independent contractor in connection with the performance of Transition Services hereunder for any and all purposes (including federal or state tax purposes), and the employees performing Transition Services in connection herewith shall not be deemed to be employees or agents of Recipient and nothing contained herein shall be deemed to create a joint venture or partnership.

Section 2.7 Cooperation. During the Service Term (as defined below), the Parties shall, and shall cause each of their agents and representatives to, cooperate with each other in good faith (i) in the performance of the Transition Services and the Parties' respective obligations under this Agreement and (ii) to facilitate an orderly and efficient transition of services, processes and functions as contemplated in this Agreement, and in each case in a manner consistent with the intent of this Agreement and without undue burden on any Party or interference with its business.

Section 2.8 Service Interruption. Upon reasonable written notice to Recipient, Provider shall have the right to temporarily interrupt the provision of Transition Services for routine or emergency maintenance purposes whenever it is the commercially reasonable judgment of Provider that such action is desirable or necessary so long as such maintenance is consistent with Provider's policies and standards applicable to provision of similar services to Provider's own businesses. If maintenance is non-scheduled, with respect to Transition Services provided by Provider, Provider shall notify Recipient as far in advance as reasonably practicable under the circumstances that maintenance is required. Notwithstanding the foregoing, Recipient acknowledges and agrees that there may be some circumstances in which advance notice is not practicable, such as in the case of emergency or unanticipated failure. In such case, Provider shall be relieved of its obligations to provide Transition Services only for the period of time that the relevant facilities or systems are so shut down. Provider shall use commercially reasonable efforts to minimize each period of shut down and to schedule, to the extent reasonably practicable under the circumstances, such period of shut down so as to not materially inconvenience or disrupt the conduct of the Recipient's business. Provider shall consult with Recipient prior to temporary shut downs to the extent reasonably practicable or, if not reasonably practicable, promptly thereafter. This Section 2.8 shall not be applicable to any event that constitutes a Force Majeure Event, which is governed by Section 2.9.

Section 2.9 Force Majeure.

(a) If Provider is prevented from or delayed in complying, either totally or in part, with any of the terms or provisions of this Agreement for any reason beyond its reasonable control, including acts of God, acts of war, terrorism or any public enemy, earthquake, fire, flood, natural disaster, epidemic or pandemic, Laws or any judgment, decree, injunction or order of any Governmental Authority (a "Force Majeure Event"), then upon notice to Recipient, which shall be provided as promptly as practicable under the circumstances, the affected provisions and/or other requirements of this Agreement shall be suspended during the period of such disability and Provider shall not have any liability to any Person in connection therewith with respect to such period. Provider shall use commercially reasonable efforts to promptly remove such disability as soon as reasonably possible and shall use commercially reasonable efforts to provide the Transition Services during such period of disability; provided, however, that nothing in this Section 2.9 will be construed to require the settlement of any strike, walkout, lockout, other labor dispute or any other claim or litigation on terms which, in the reasonable judgment of Provider, are contrary to its interest. It is understood that the settlement of a strike, walkout, lockout, other labor dispute or any other claim or litigation will be entirely within the discretion of Provider. If Provider is unable to provide any of the Transition Services due to such a disability, the Parties shall use commercially reasonable efforts to cooperatively seek a solution that is mutually satisfactory.

(b) Notwithstanding anything in this Agreement to the contrary, the obligation of Provider to resume performance of its obligations hereunder pursuant to this Section 2.9 shall cease to be in effect to the extent and for the period that Recipient has acquired such Transition Services from an alternate source pursuant to this Section 2.9. Recipient shall be free to acquire such Transition Services from an alternate source, at Recipient's sole cost and expense, and without liability to Provider, for the period and to the extent reasonably necessitated by such non-performance and during the continuation of any agreement entered into with the provider of such Transition Service, and for that period that such Transition Service is provided by an alternate source, Provider shall have no obligation to provide such Transition Service to Recipient. For the avoidance of doubt, Recipient shall not be obligated to pay Provider for such Transition Services during the period when Provider is not providing itself, or through an Affiliate or Third Party, such Transition Services.

Section 2.10 Obligations. The provision of Transition Services hereunder is subject to the following:

(a) Recipient shall not resell, assign or subcontract any of the Transition Services to any Person whatsoever or permit the use of the Transition Services by any other Person;

(b) Provider shall not be liable for any action or inaction taken or omitted to be taken by it, its Affiliate or a Third Party pursuant to, and in accordance with, instructions received from Recipient;

(c) Provider may refuse to take any action requested by Recipient if it is not an action required to be taken under this Agreement, and any services provided beyond the scope of the Transition Services shall be billed on such basis as the Parties may mutually agree in accordance with this Agreement;

(d) Provider shall have no obligation to perform any Transition Service to the extent that performing such Transition Service is dependent upon, or otherwise requires, Recipient to perform some service, operation or function prior to Provider performing any such Transition Service unless Recipient shall have, in fact, prior to when Provider is required to perform such Transition Service, performed such other service, operation or function consistent with commercially reasonable business practices;

(e) the Parties shall, during the term of this Agreement, comply with any applicable Law relating to the Transition Services;

(f) In no event shall Provider be obligated under this Agreement to maintain the employment of any specific employee or acquire any additional equipment, software or other resources;

(g) the Parties shall not, and shall cause their respective employees not to, break, bypass or circumvent, or attempt to break, bypass or circumvent any security system of any Party hereunder or obtain access to any program or data other than that to which access has been specifically granted; and

(h) the Parties shall, and shall cause their respective Representatives and employees to, at all times comply with all physical and technological security rules, policies and procedures of Provider and Recipient, as applicable.

Section 2.11 Modifications. Provider shall have the right to reasonably supplement, modify, substitute or otherwise alter any of the Transition Services from time to time in a manner consistent with supplements, modifications, substitutions or alterations made for similar services provided or otherwise made available by Provider to itself or its Affiliates; provided that the standard set forth in Section 2.1(b) shall not be materially decreased as a result of such supplements, modifications, substitutions or alterations.

ARTICLE III FEES AND PAYMENT

Section 3.1 Fees and Out-of-Pocket Costs. During the Service Term for any Transition Service, the fees payable by Recipient for such Transition Service (the “Fees”) shall be as set forth on Exhibit A or Exhibit B, as applicable. In the event that Purchaser or any of its Affiliates or Third Party service providers incur reasonable and documented out-of-pocket expenses in the provision of any Transition Service, including, without limitation, license fees, postage or overnight delivery costs, and pre-approved travel expenses, Recipient shall reimburse Provider for all such costs and expenses.

Section 3.2 Invoice and Payment. Provider shall invoice Recipient for amounts due hereunder on a monthly basis, and amounts due hereunder shall be paid by Recipient within thirty (30) days of receipt of the applicable invoice.

Section 3.3 Disputes and Resolution. Recipient shall promptly notify Provider in writing of any amounts billed to it that are in dispute. Upon receipt of such notice, Provider shall research the items in question in a reasonably prompt manner and cooperate with Recipient to resolve any such dispute. Any such dispute shall not relieve Recipient of the obligation to make prompt payment according to the mechanism described in this Article III for any undisputed amounts. In the event that the Parties agree that any amount that was paid by Recipient was not properly owed, Provider shall refund that amount within thirty (30) days of such agreement.

Section 3.4 Taxes. To the extent required by applicable Law, there shall be added to any Fees due under this Agreement, and included on the applicable invoice, and Recipient agrees to pay to Provider, amounts equal to any Taxes, however designated or levied, based upon such Fees, or upon this Agreement or the Transition Services or materials provided under this Agreement, or their use, as provided by Provider to Recipient hereunder (collectively, “Service Taxes”). Provider agrees to pay any such amounts received by it with respect to any Service Taxes to the appropriate Governmental Authority plus any interest and penalty that may be imposed as the result of Provider not remitting such Service Taxes in a timely manner. In the event any Service Taxes based upon services provided by Provider are not added to an invoice from Provider, Recipient shall be responsible, as applicable, to remit to the appropriate Governmental Authority any additional amounts due including Service Tax, interest and penalty (if the penalty is imposed as a result of Recipient’s payment failure or delay to make payment). If additional amounts are determined to be due on the Transition Services provided to Recipient

hereunder as a result of an audit by a Tax jurisdiction, Recipient agrees to reimburse Provider for any additional Tax due, including any interest or penalties (if a penalty or interest is imposed as a result of Recipient's failure or delay to make payment), unless Recipient has already paid such Tax, interest or penalty itself. The Parties shall use commercially reasonable efforts to cooperate to the extent necessary to obtain any exemption relating to, or reduced rate of, deduction or withholding for or on account of any Taxes. If any Taxes are required to be deducted or withheld from any payments made by Recipient to Provider hereunder, then Recipient shall (i) withhold or deduct the required amount and promptly pay such Taxes to the applicable Tax authority, and (ii) pay additional amounts to Provider so that the net amount actually received by Provider after such withholding or deduction of Tax is equal to the amount that Provider would have received had no such withholding or deduction been required. The Parties further agree that no Party shall be required to pay any franchise Taxes, Taxes based on the net income of the other Party or personal property Taxes on property owned or leased by a Party.

Section 3.5 No Right of Set-Off. Neither Party shall have any right under this Agreement to offset any amounts owed (or to become due and owing) to the other Party, whether under this Agreement or otherwise, against any other amount owed (or to become due and owing) to it by the other Party.

ARTICLE IV DISCLAIMER AND LIMITATION OF LIABILITY

Section 4.1 Disclaimer of Warranties. EXCEPT AS EXPRESSLY SET FORTH IN THIS AGREEMENT, EACH PARTY MAKES NO REPRESENTATIONS OR WARRANTIES WHATSOEVER, EXPRESS OR IMPLIED, WITH RESPECT TO THE TRANSITION SERVICES TO BE PROVIDED OR RECEIVED BY IT OR OTHERWISE WITH RESPECT TO THIS AGREEMENT.

Section 4.2 Limitation of Damages. EXCEPT IN THE CASE OF THIRD PARTY CLAIMS, NEITHER PARTY SHALL UNDER ANY CIRCUMSTANCES BE LIABLE TO THE OTHER PARTY FOR ANY SPECIAL, INDIRECT, PUNITIVE OR CONSEQUENTIAL DAMAGES (INCLUDING LOSS OF PROFITS OR REVENUE OR ANY DIMINUTION OF VALUE) RESULTING OR ARISING FROM THIS AGREEMENT, INCLUDING THE TRANSITION SERVICES, ANY PERFORMANCE OR NONPERFORMANCE OF THE TRANSITION SERVICES OR TERMINATION OF THE TRANSITION SERVICES REGARDLESS OF WHETHER SUCH DAMAGES OR OTHER RELIEF ARE SOUGHT BASED ON BREACH OF WARRANTY, BREACH OF CONTRACT, NEGLIGENCE, STRICT LIABILITY, IN TORT (INTENTIONAL OR OTHERWISE), OR ANY OTHER LEGAL OR EQUITABLE THEORY, SUBJECT TO SECTION 4.4.

Section 4.3 Limitation of Liability. The maximum liability of Provider to, and the sole remedy of, Recipient for breach of this Agreement shall be an amount not to exceed the Fee scheduled to be paid by Recipient to Provider for the particular Transition Service that is the subject of such breach.

Section 4.4 Exclusions From Section 4.2 and 4.3. Neither the limitations of damages set forth in Section 4.2 nor the limitations of liability set forth in Section 4.3 shall apply to (i) a Party's breach of Article VI (Confidentiality) or (ii) to a Party's gross negligence, willful misconduct or actual fraud.

ARTICLE V
OWNERSHIP OF ASSETS

Section 5.1 Systems. Any information system, software, computer network, database or data file owned, licensed, leased or provided by or for Provider which is used by Provider or its suppliers on behalf of Provider in connection with provision of any Transition Service, each as modified, maintained or enhanced from time to time by Provider or any relevant Third Party (collectively, the “Systems”) shall remain the sole exclusive property of Provider. Except as provided for in Section 5.2 or in any Transaction Document, under no circumstances will Recipient obtain hereunder any ownership right or license (implied or otherwise) in or to (i) any custom development work performed hereunder by Provider, an Affiliate or Third Parties working at the direction of Provider, (ii) any intellectual property of Provider, or (iii) any Systems used in connection with the Transition Services not owned or licensed by Recipient as of the effective date of this Agreement.

Section 5.2 Intellectual Property. Except with respect to data and intellectual property exclusively created for Recipient as a Transition Service deliverable or as otherwise agreed to by the Parties, as between Provider, on the one hand, and Recipient, on the other hand, all right, title and interest in and to all data and intellectual property developed or provided by Provider in connection with its provision of Transition Services shall be owned exclusively by Provider.

Section 5.3 Other Assets. Except as provided in Section 5.1 and Section 5.2, all procedures, methods, systems, strategies, tools, equipment, facilities and other resources used by a Party, an Affiliate or any relevant Third Party shall remain the property of such party and, except as otherwise provided herein, shall at all times be under the sole direction and control of such Party, Affiliate or Third Party.

ARTICLE VI
CONFIDENTIALITY

Section 6.1 Confidential Information. As used in this Agreement:

(a) “Provider Confidential Information” means information owned by or concerning Provider or its Affiliates disclosed in the course of performance of this Agreement, including the terms and conditions of this Agreement, except for:

(i) information that is or becomes generally publicly available (other than through disclosure in breach of this Agreement by Recipient or its Representatives), from and after the date of public availability;

(ii) information that is independently derived by the Recipient or its Representatives without use of or reference to Provider Confidential Information; or

(iii) information disclosed to the Recipient or its Representatives by a third party not known to be bound by any confidentiality agreement with or other contractual,

legal or fiduciary obligation of confidentiality to Provider or its Representatives; provided that (A) under the circumstances of disclosure, Recipient and its Representatives do not owe a duty of non-disclosure to such third party and (B) the disclosure by such third party is not otherwise unlawful.

(b) “Recipient Confidential Information” means information owned by or concerning Recipient disclosed in the course of performance of this Agreement, including the terms and conditions of this Agreement, except for:

(i) information that is or becomes generally publicly available (other than through disclosure in breach of this Agreement by Provider or its Representatives), from and after the date of public availability;

(ii) information that is independently derived by Provider or its Representatives without use of or reference to Recipient Confidential Information; or

(iii) information disclosed to Provider or its Representatives by a third party not known to be bound by any confidentiality agreement with or other contractual, legal or fiduciary obligation of confidentiality to the Recipient or its Representatives; provided that (A) under the circumstances of disclosure, Provider and its Representatives do not owe a duty of non-disclosure to such third party and (B) the disclosure by such third party is not otherwise unlawful.

Section 6.2 Non-Disclosure and Permitted Use. Provider and Recipient shall not, and shall cause their respective Affiliates and each of their and their Affiliates’ Representative not to, disclose to any other Person or use, except for purposes of this Agreement (and only in accordance with applicable laws), any information that is Provider Confidential Information or Recipient Confidential Information, respectively; provided that each Party may disclose Provider Confidential Information or Recipient Confidential Information, as the case may be (i) to its Representatives on a need-to-know basis in connection with the performance of such Party’s obligations under this Agreement, (ii) in a regulatory or securities law filing if required to be included therein under applicable laws or, subject to Section 6.3, in response to any summons, subpoena or other legal process or formal or informal investigative demand or regulatory request issued by a Governmental Entity to such Party or its Representatives in the course of any litigation, investigation, inquiry or administrative proceeding, (iii) to enforce its rights under this Agreement, or (iv) with the prior written consent of Provider (in the case of disclosure by Recipient) or Recipient (in the case of disclosure by Provider).

Section 6.3 Compelled Disclosure. In the event that Provider, Recipient or any of their respective Representatives (such Person(s), collectively, the “disclosing party”) is required or requested by deposition, interrogatory, request for documents, subpoena, civil investigative demand, regulatory request or similar judicial, regulatory or administrative process to disclose any Provider Confidential Information or Recipient Confidential Information, as the case may be, the disclosing party shall provide Recipient or Provider, as the case may be (the “non-disclosing party”), with prompt prior written notice of such requirement so that the non-disclosing party may seek (at the non-disclosing party’s expense) a protective order or similar remedy to cause Provider Confidential Information or Recipient Confidential Information, as the

case may be, not to be disclosed. In the event that such protective order is not sought or other similar remedy is not timely obtained or the non-disclosing party waives compliance with the provisions of this Section 6.3, the disclosing party shall furnish only that portion of Provider Confidential Information or Recipient Confidential Information, as the case may be, that the disclosing party's legal counsel has advised is required or requested, and shall exercise commercially reasonable efforts to obtain assurance that confidential treatment shall be accorded such disclosed Provider Confidential Information or Recipient Confidential Information, as the case may be, to the extent practicable under the circumstances.

Section 6.4 Survival. The obligations of the Parties and their respective Representatives under this Article VI shall remain in effect indefinitely following the expiration or termination of this Agreement. Nothing in this Article VI shall limit the obligations of confidentiality and non-use set forth in the Separation Agreement.

ARTICLE VII INDEMNIFICATION

Section 7.1 Indemnification by Recipient. Recipient shall indemnify, defend and hold harmless Provider, its Affiliates and Representatives, and each of the successors and assigns of any of the foregoing (collectively, the "Provider Indemnitees") from and against any and all Third Party Claims (as defined below) relating to, arising out of or resulting from (a) the provision of the Transition Services by Provider or its designees in accordance with the terms of this Agreement or (b) any other breach of this Agreement by Recipient, in each case, except to the extent the Third Party Claims arise out of any breach by Provider of this Agreement or the gross negligence or willful misconduct of Provider in providing Transition Services hereunder. Provider shall take all commercially reasonable steps to mitigate any such claims upon becoming aware of any event which would reasonably be expected to, or does, give rise thereto, including incurring costs only to the minimum extent necessary to remedy the cause which gives rise to such claim.

Section 7.2 Indemnification by Provider. Provider shall indemnify, defend and hold harmless Recipient, its Affiliates, their respective Representatives, and each of the successors and assigns of any of the foregoing (collectively, the "Recipient Indemnitees") from and against any Third Party Claims relating to, arising out of or resulting from (a) gross negligence or willful misconduct on the part of Provider in providing the Transition Services or (b) any breach of this Agreement by Provider, in each case, except to the extent the Third Party Claims arise out of any breach by Recipient of this Agreement. Recipient shall take all commercially reasonable steps to mitigate any such claims upon becoming aware of any event which would reasonably be expected to, or does, give rise thereto, including incurring costs only to the minimum extent necessary to remedy the cause which gives rise to such claim.

Section 7.3 Indemnification Obligations Net of Insurance Proceeds. The Parties intend that any liability subject to indemnification pursuant to this ARTICLE VII will be net of insurance proceeds actually received, realized or recovered by an Indemnified Party. Accordingly, the amount which any Party (an "Indemnifying Party") is required to pay to any Person entitled to indemnification hereunder (an "Indemnified Party") will be reduced or offset by any insurance proceeds theretofore actually received, realized or recovered by or on behalf of

the Indemnified Party in reduction of the related liability. If an Indemnified Party receives a payment (an “Indemnity Payment”) required by this Agreement from an Indemnifying Party in respect of any liability and subsequently receives insurance proceeds in respect thereof, then the Indemnified Party will pay to the Indemnifying Party an amount equal to the excess of the Indemnity Payment received over the amount of the Indemnity Payment that would have been due if the insurance proceeds had been received, realized or recovered before the Indemnity Payment was made.

Section 7.4 Procedures for Indemnification of Third Party Claims.

(a) If an Indemnified Party shall receive notice or otherwise learn of the assertion by a third party of any claim or of the commencement by any such third party of any action (collectively, a “Third Party Claim”) with respect to which an Indemnifying Party may be obligated to provide indemnification to such Indemnified Party pursuant to Section 7.1 or Section 7.2, such Indemnified Party shall give the Indemnifying Party written notice thereof within thirty (30) days after becoming aware of such Third Party Claim. Any such notice shall describe the Third Party Claim in reasonable detail. Notwithstanding the foregoing, the failure of any Indemnified Party to give notice as provided in this Section 7.4(a) shall not relieve the relevant Indemnifying Party of its obligations under this Article VII, except to the extent that such Indemnifying Party is actually materially prejudiced by such failure to give notice.

(b) An Indemnifying Party may elect to defend (and to seek to settle or compromise), at such Indemnifying Party’s own expense and by such Indemnifying Party’s own counsel, any Third Party Claim. Within thirty (30) days after the receipt of notice from an Indemnified Party in accordance with Section 7.4(a), the Indemnifying Party shall notify the Indemnified Party of its election whether the Indemnifying Party will assume responsibility for defending such Third Party Claim, which election shall specify any reservations or exceptions. After notice from an Indemnifying Party to an Indemnified Party of its election to assume the defense of a Third Party Claim, such Indemnified Party shall have the right to employ separate counsel and to participate in (but not control) the defense, compromise, or settlement thereof, but the fees and expenses of such counsel shall be the expense of such Indemnified Party.

(c) If an Indemnifying Party elects not to assume responsibility for defending a Third Party Claim, or fails to notify an Indemnified Party of its election as provided in Section 7.4(b), such Indemnified Party may defend such Third Party Claim, at the cost and expense of the Indemnifying Party to the extent indemnifiable hereunder.

(d) No Party shall consent to entry of any judgment or enter into any settlement of a Third Party Claim without the consent of the other Party (which consent shall not be unreasonably withheld, delayed or conditioned).

ARTICLE VIII MANAGEMENT OF TRANSITION; DISPUTE RESOLUTION

Section 8.1 Management. The day to day management of the transition and the provision and receipt of individual Transition Services shall be the responsibility of the contact persons for each functional area named on Exhibit A or Exhibit B, as applicable (“Service Coordinators”).

Each Party shall also name a representative with appropriate authority to manage the overall coordination, provision and receipt of the Transition Services and to resolve disputes between the Parties (together, the "Management Representatives"). The initial Management Representatives are named on Exhibit C. Each Party shall have the right at any time and from time to time to replace its Service Coordinators and Management Representative by advising the other Party in writing of any change in accordance with Section 10.1 hereof. The Parties agree that all written communications relating to the provision of any Transition Service shall be directed to the Service Coordinators. Each Party may treat an act of a Service Coordinator or Management Representative on behalf of the other Party as an act authorized by such other Party.

Section 8.2 Dispute Resolution. Any and all disputes, controversies or claims, including any disputes regarding the enforceability of this Agreement, including this provision (each, a "Dispute") arising under or relating to this Agreement shall be resolved in accordance with the terms of this Section 8.2. Either Party may notify the other of its intent to resolve a Dispute by delivering a written notice to the Service Coordinator of the other Party in accordance with Section 10.1. The written notice shall describe the Dispute in reasonable detail (including references to the sections of this Agreement that are at issue in such Dispute and, if any claim involves an allegation that the other Party has committed a material breach, reasons as to why the Party serving such notice believes such breach to be material) ("Initial Notice"). The Service Coordinators shall then meet and confer in good faith to attempt to resolve the Dispute. If the Dispute is not resolved within ten (10) days following the receipt of the Initial Notice, then either Party may, by a second notice to the other Party, submit such Dispute to the Management Representatives. The Management Representatives shall then meet and confer in good faith to attempt to resolve the Dispute. If the Management Representatives are unable to resolve the Dispute, within ten (10) days following referral of such Dispute to the Management Representatives, then the Parties agree that any Party shall have the right to submit such Dispute to a court of competent jurisdiction in accordance with Section 10.8. For avoidance of doubt, nothing contained in this Section 8.2 shall operate as a restriction on a Party's rights to terminate this Agreement pursuant to Article IX.

Section 8.3 Equitable Remedies. Nothing contained in Section 8.2 shall restrict or limit any rights that a Party may have to seek injunctive relief (including specific performance) or other equitable relief.

ARTICLE IX TERM AND TERMINATION

Section 9.1 Term.

(a) Term of Agreement. This Agreement shall commence on the date hereof and shall end on the earliest of: (i) the date all Transition Services have expired in accordance with the terms of this Agreement, (ii) the date all Transition Services have been terminated in accordance with the terms of this Agreement, or (iii) the date on which this Agreement is terminated (as a whole) pursuant to its terms.

(b) Term of Services. Provider shall provide each Transition Service beginning on the date hereof, or as otherwise set forth in Exhibit A or Exhibit B, as applicable, or agreed to by

the Parties in writing, and continuing for a period equal to the service term set forth in Exhibit A or Exhibit B, as applicable, and any extension agreed to by the Parties in writing (the "Service Term"), unless sooner terminated in accordance with the provisions of this Agreement.

Section 9.2 Termination of Services.

(a) Termination of Particular Transition Services. Recipient may terminate its right to receive any particular Transition Service for any or no reason, by providing Provider with written notice of termination (the "Termination Notice"), not less than forty five (45) days (or such lesser number of days set forth in Exhibit A or Exhibit B, as applicable, with respect to a specific Transition Service) prior to the date on which services shall be terminated (the "Termination Date") setting forth in reasonable detail the applicable Transition Services to be terminated (the "Terminated Services") and the Termination Date for each Terminated Service. Upon such termination, Recipient's obligation to pay for such Terminated Services beyond the Termination Date will terminate. Notwithstanding the foregoing, no Transition Service that is dependent on another Transition Service provided hereunder may be terminated unless both such Transition Services are terminated concurrently.

(b) Termination for Breach. If a Party materially breaches any of its obligations under this Agreement, and does not cure such default within thirty (30) days after receiving written notice thereof from the non-breaching Party, then the non-breaching Party may, at its option, terminate any Transition Service affected by such breach or this Agreement in its entirety by providing a Termination Notice to the breaching Party, for which termination the effective Termination Date shall be the date of receipt of such Termination Notice.

(c) Procedures on Termination of Services. Beginning on the Termination Date, Recipient shall not be obligated to pay any Fees or costs in connection with any Terminated Services other than Fees and reimbursable costs owed for such Terminated Services rendered but not paid for prior to the Termination Date. Any Termination Notice delivered pursuant to this Section 9.2 shall be irrevocable.

Section 9.3 Termination of the Transition Services Agreement. Any termination of this Agreement pursuant to this Section 9.3 shall be without prejudice to any rights or obligations of the Parties accruing prior to such termination, including the right to payment of unpaid Fees and reimbursable costs owing for Transition Services performed prior to termination.

(a) By Mutual Consent. This Agreement may be terminated by mutual consent of the Parties in writing at any time.

(b) Termination for Non-Payment. Provider may terminate this Agreement (to be effective immediately) if any Fees or other amounts due by Recipient hereunder fail to be timely paid in accordance with this Agreement or otherwise, except those amounts that are reasonably contested pursuant to the terms hereof, within thirty (30) days following written notice to Recipient by Provider of such failure.

(c) Bankruptcy Termination. This Agreement may be terminated by either Party upon at least thirty (30) days prior written notice if the other Party is declared insolvent or bankrupt, or makes an assignment for the benefit of creditors, or a receiver is appointed or any proceeding is demanded by, for or against the other under any provision of bankruptcy law.

Section 9.4 Procedures on Termination of the Agreement. Following any termination of this Agreement or termination of any Transition Services each Party will cooperate with the other Party, at the requesting Party's expense, as reasonably necessary to avoid disruption of the ordinary course of the other Party's and its Affiliates' businesses. Termination shall not affect any right to payment for Transition Services provided, or expenses incurred in connection therewith, prior to termination.

Section 9.5 Survival. Section 2.10, Article III (with respect to Fees, reimbursable costs and Taxes attributable to periods prior to termination), and Article IV through Article X and shall survive any termination of this Agreement for the periods set forth in the applicable provisions, if any, or if none, indefinitely. Termination of this Agreement shall not relieve a Party of any liability that has accrued prior to the effective date of such termination.

ARTICLE X MISCELLANEOUS

Section 10.1 Notices. All notices and other communications hereunder shall be in writing, shall reference this Agreement and shall be hand delivered, delivered via electronic mail or facsimile or mailed by registered or certified mail (return receipt requested) to the Parties at the addresses specified in Section 10.6 of the Separation Agreement (or at such other addresses for a Party as shall be specified by like notice) and will be deemed given on the date on which such notice is received.

Section 10.2 Severability. In the event any one or more of the provisions contained in this Agreement should be held invalid, illegal or unenforceable in any respect, the validity, legality and enforceability of the remaining provisions contained herein and therein shall not in any way be affected or impaired thereby. The Parties shall endeavor in good faith negotiations to replace the invalid, illegal or unenforceable provisions with valid provisions, the economic effect of which comes as close as possible to that of the invalid, illegal or unenforceable provisions.

Section 10.3 Entire Agreement. This Agreement, including the Exhibits hereto, and the Separation Agreement shall constitute the entire agreement between the Parties with respect to the subject matter hereof and shall supersede all previous negotiations, commitments and writings with respect to such subject matter.

Section 10.4 Assignment. This Agreement shall not be assignable, in whole or in part, directly or indirectly, by any Party without the prior written consent of the other Party, and any attempt to assign any rights or obligations arising under this Agreement without such consent shall be void; provided, however, that either Party may assign this Agreement to a purchaser of all or substantially all of the properties and assets of such Party so long as such purchases expressly assumes, in a written instrument in form reasonably satisfactory to the non-assigning Party, the due and punctual performance or observance of every agreement and covenant of this Agreement on the part of the assigning Party to be performed or observed.

Section 10.5 Successors and Assigns. The provisions to this Agreement shall be binding upon, inure to the benefit of and be enforceable by the Parties and their respective successors and permitted assigns.

Section 10.6 No Third Party Beneficiaries. This Agreement is solely for the benefit of the Parties and their respective Affiliates and shall not be deemed to confer upon any other Person (other than an Indemnified Party with respect to Article VII) any remedy, claim, liability, reimbursement, cause of action or other right in excess of those existing without reference to this Agreement.

Section 10.7 Amendments. This Agreement may not be modified or amended except by an agreement in writing signed by each of the Parties.

Section 10.8 Governing Law Submission to Jurisdiction; Waivers.

(a) This Agreement shall be governed by and construed in accordance with the laws of the state of Delaware applicable to contracts made and to be performed in the state of Delaware, without giving effect to any choice or conflict of law provision or rule (whether of the State of Delaware or any other jurisdiction) that would cause the application of Laws of any jurisdiction other than those of the State of Delaware.

(b) Subject to Article VIII, all judicial proceedings brought against the Parties arising out of or relating to this Agreement, or any obligations hereunder, shall be brought in any state or federal court of competent jurisdiction in the state of Delaware. The Parties irrevocably (i) accept generally and unconditionally the exclusive jurisdiction and venue of these courts; (ii) waive any objections which such Party may now or hereafter have to the laying of venue of any of the aforesaid actions or proceedings arising out of or in connection with this Agreement brought in the courts referred to in clause (i) above and hereby further irrevocably waive and agree not to plead or claim in any such court that such action or proceeding brought in any such court has been brought in an inconvenient forum; (iii) agree that service of all process in any such proceeding in any such court may be made by registered or certified mail, return receipt requested, to such Party at their respective addresses provided in accordance with Section 10.6 of the Separation Agreement; and (iv) agree that service as provided in clause (iii) above is sufficient to confer personal jurisdiction over such Party in any such proceeding in any such court, and otherwise constitutes effective and binding service in every respect.

(c) The Parties hereby irrevocably waive any and all right to trial by jury in any legal proceeding arising out of or related to this Agreement.

Section 10.9 Rules of Construction. Interpretation of this Agreement shall be governed by the following rules of construction: (a) words in the singular shall be held to include the plural and vice versa, and words of one gender shall be held to include the other gender as the context requires; (b) references to the terms Article, Section, paragraph, Exhibit and Schedule are references to the Articles, Sections, paragraphs, Exhibits and Schedules to this Agreement unless otherwise specified; (c) the terms "hereof", "herein", "hereby", "hereto", and derivative or similar words refer to this entire Agreement, including the Exhibits and Schedules hereto; (d) references to "\$" shall mean U.S. dollars; (e) the word "including" and words of similar

import when used in this Agreement shall mean “including without limitation,” unless otherwise specified; (f) the word “or” shall not be exclusive; (g) references to “written” or “in writing” include in electronic form; (h) the headings contained in this Agreement are for reference purposes only and shall not affect in any way the meaning or interpretation of this Agreement; (i) the Parties have each participated in the negotiation and drafting of this Agreement and if an ambiguity or question of interpretation should arise, this Agreement shall be construed as if drafted jointly by the Parties thereto and no presumption or burden of proof shall arise favoring or burdening any Party by virtue of the authorship of any of the provisions in this Agreement; (j) a reference to any Person includes such Person’s successors and permitted assigns; (k) any reference to “days” means calendar days unless Business Days are expressly specified; and (l) when calculating the period of time before which, within which or following which any act is to be done or step taken pursuant to this Agreement, the date that is the reference date in calculating such period shall be excluded and, if the last day of such period is not a Business Day, the period shall end on the next succeeding Business Day.

Section 10.10 Counterparts. This Agreement may be executed in one or more counterparts, all of which shall be considered one and the same agreement, and shall become effective when one or more such counterparts have been signed by each of the Parties and delivered to the other Party.

[Signature Page Follows]

IN WITNESS WHEREOF, the Parties have executed this Agreement as of the day and year first written above.

PDL

PDL BioPharma, Inc.

By: /s/ Dominique Monnet
Name: Dominique Monnet
Title: President and Chief Executive Officer

LENSAR

LENSAR, Inc.

By: /s/ Nicholas Curtis
Name: Nicholas Curtis
Title: Chief Executive Officer

[Signature Page to Transition Services Agreement]

TAX MATTERS AGREEMENT

BY AND BETWEEN

PDL BIOPHARMA, INC.

AND

LENSAR, INC.

DATED AS OF SEPTEMBER 30, 2020

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TAX MATTERS AGREEMENT

This Tax Matters Agreement (this "Agreement") is dated as of September 30, 2020, by and between PDL BioPharma, Inc., a Delaware corporation ("PDL"), and LENSAR, Inc, a Delaware corporation and a direct, majority-owned subsidiary of PDL ("LENSAR" and, together with PDL, the "Parties"). Capitalized terms used herein and not otherwise defined shall have the respective meanings assigned to them in Section 1.1.

RECITALS:

WHEREAS, PDL and LENSAR have entered into a Separation and Distribution Agreement, dated as of September 30, 2020 (the "Separation Agreement"), pursuant to which the Distribution will be consummated;

WHEREAS, PDL adopted a Plan of Complete Liquidation in February 2020 and a Plan of Dissolution on May 4, 2020;

WHEREAS, the Parties intend that the Distribution will qualify as part of a liquidating distribution under Sections 331 and 336 of the Internal Revenue Code of 1986, as amended (the "Code"); and

WHEREAS, PDL and LENSAR desire to set forth their agreement on the rights and obligations of PDL and LENSAR and the PDL Entities and the LENSAR Entities, respectively, with respect to (A) the administration and allocation of federal, state, local, and foreign Taxes incurred in Tax Periods beginning prior to the Distribution Date, (B) Taxes resulting from the Distribution and transactions effected in connection with the Distribution and (C) various other Tax matters.

NOW, THEREFORE, in consideration of the mutual covenants contained in this Agreement, the Parties hereby agree as follows:

ARTICLE I. DEFINITIONS

Section 1.1 General. Unless otherwise defined herein or unless the context otherwise requires, as used in this Agreement, the following terms shall have the following meanings:

"Adjusted Grossed-Up Basis" shall have the meaning set forth in Section 3.4(b).

"Adjustment Request" shall mean any formal or informal claim or request filed with any Tax Authority, or with any administrative agency or court, for the adjustment, refund, or credit of Taxes, including (i) any amended Tax Return claiming adjustment to the Taxes as reported on the Tax Return or, if applicable, as previously adjusted, (ii) any claim for equitable recoupment or other offset, and (iii) any claim for refund or credit of Taxes previously paid.

"Affiliate" shall have the meaning set forth in the Separation Agreement.

“Aggregate Deemed Asset Disposition Price” shall have the meaning set forth in Section 3.4(b).

“Agreement” shall have the meaning set forth in the preamble to this Agreement.

“Allocation” shall have the meaning set forth in Section 3.6(b).

“Ancillary Agreements” shall have the meaning set forth in the Separation Agreement; provided, however, that for purposes of this Agreement, this Agreement shall not constitute an Ancillary Agreement.

“Applicable Rate” shall mean the rate of interest per annum announced from time to time by the Wall Street Journal as the “prime rate” at large U.S. money center banks.

“Business Day” shall have the meaning set forth in the Separation Agreement.

“Closing of the Books Method” shall mean the apportionment of items between portions of a Tax Period based on a closing of the books and records on the close of the Distribution Date (in the event that the Distribution Date is not the last day of the Tax Period, as if the Distribution Date were the last day of the Tax Period), subject to adjustment for items accrued on the Distribution Date that are properly allocable to the Tax Period following the Distribution, as jointly determined by PDL and LENSAR; provided, however, that with respect to Property Taxes, such apportionment shall be on the basis of elapsed days during the relevant portion of the Tax Period.

“Code” shall have the meaning set forth in the recitals to this Agreement.

“Controlling Party” shall have the meaning set forth in Section 8.2(c).

“Distribution” shall have the meaning set forth in the Separation Agreement.

“Distribution Date” shall have the meaning set forth in the Separation Agreement.

“Effective Time” shall have the meaning set forth in the Separation Agreement.

“Entities” shall have the meaning set forth in the Separation Agreement.

“Final Determination” shall mean the final resolution of liability for any Tax, which resolution may be for a specific issue or adjustment or for any Tax Period, (i) by IRS Form 870 or 870-AD (or any successor forms thereto), on the date of acceptance by or on behalf of the taxpayer, or by a comparable form under the laws of a state, local, or foreign taxing jurisdiction, except that an IRS Form 870 or 870-AD or comparable form shall not constitute a Final Determination to the extent that it reserves (whether by its terms or by operation of law) the right of the taxpayer to file a claim for refund or the right of the Tax Authority to assert a further deficiency in respect of such issue or adjustment or for such Tax Period (as the case may be); (ii) by a decision, judgment, decree, or other order by a court of competent jurisdiction, which has become final and unappealable; (iii) by a closing agreement or accepted offer in compromise under Sections 7121 or 7122 of the Code, or a comparable agreement under the laws of a state,

local, or foreign taxing jurisdiction; (iv) by any allowance of a refund or credit in respect of an overpayment of a Tax, but only after the expiration of all periods during which such refund may be recovered (including by way of offset) by the jurisdiction imposing such Tax; (v) by a final settlement resulting from a treaty-based competent authority determination; or (vi) by any other final disposition, including by reason of the expiration of the applicable statute of limitations, the execution of a pre-filing agreement with the IRS or other Tax Authority, or by mutual agreement of the Parties.

“Governmental Authority” shall have the meaning set forth in the Separation Agreement.

“Income Tax” shall mean all U.S. federal, state, local and foreign income, franchise or similar Taxes imposed on (or measured by) net income or net profits, and any interest, penalties, additions to Tax or additional amounts in respect of the foregoing.

“Intended Tax Treatment” shall mean the qualification of the Distribution as part of a liquidating distribution under Sections 331 and 336.

“IRS” shall mean the U.S. Internal Revenue Service or any successor agency.

“Joint Return” shall mean any Tax Return that includes, by election or otherwise, one or more PDL Entities together with one or more LENSAR Entities.

“Law” shall have the meaning set forth in the Separation Agreement.

“LENSAR” shall have the meaning set forth in the preamble to this Agreement.

“LENSAR Business” shall have the meaning set forth in the Separation Agreement.

“LENSAR Carryback” shall mean any net operating loss, net capital loss, excess Tax credit, or other similar Tax Item of any LENSAR Entity which may or must be carried from one Tax Period to another prior Tax Period under the Code or other applicable Tax Law.

“LENSAR Entities” shall have the meaning set forth in the Separation Agreement.

“LENSAR Separate Return” shall mean any Tax Return of or including any LENSAR Entity (including any consolidated, combined or unitary return) that does not include any PDL Entity.

“Loss” shall have the meaning set forth in Section 5.2(a).

“Non-Controlling Party” shall have the meaning set forth in Section 8.2(c).

“Parties” shall have the meaning set forth in the preamble to this Agreement.

“Past Practices” shall have the meaning set forth in Section 3.3(a).

“Payment Date” shall mean, with respect to a Tax Return, (A) the due date for any required installment of estimated Taxes, (B) the due date (determined without regard to extensions) for filing such Tax Return, or (C) the date such Tax Return is filed, as the case may be.

“Payor” shall have the meaning set forth in Section 4.3(a).

“PDL” shall have the meaning set forth in the preamble to this Agreement.

“PDL Business” shall have the meaning set forth in the Separation Agreement.

“PDL Entities” shall have the meaning set forth in the Separation Agreement.

“PDL Separate Return” shall mean any Tax Return of or including any PDL Entity (including any consolidated, combined or unitary return) that does not include any LENSAR Entity.

“Person” means an individual, a partnership, a corporation, a limited liability company, an association, a joint stock company, a trust, a joint venture, an unincorporated organization or a Governmental Authority or any department, agency or political subdivision thereof, without regard to whether any entity is treated as disregarded for U.S. federal Income Tax purposes.

“Post-Distribution Period” shall mean any Tax Period beginning after the Distribution Date and, in the case of any Straddle Period, the portion of such Tax Period beginning on the day after the Distribution Date.

“Pre-Distribution Period” shall mean any Tax Period ending on or before the Distribution Date and, in the case of any Straddle Period, the portion of such Straddle Period ending on and including the Distribution Date.

“Prior Group” shall mean any group that filed or was required to file (or will file or be required to file) a Tax Return, for a Tax Period or portion thereof ending at the close of the Distribution Date, on an affiliated, consolidated, combined, unitary, fiscal unity or other group basis (including as permitted by Section 1501 of the Code) that includes at least one of the LENSAR Entities.

“Privilege” shall mean any privilege that may be asserted under applicable law, including, any privilege arising under or relating to the attorney-client relationship (including the attorney-client and work product privileges), the accountant-client privilege and any privilege relating to internal evaluation processes.

“Property Taxes” shall mean all real property Taxes, personal property Taxes and similar ad valorem Taxes.

“Required Party” shall have the meaning set forth in Section 4.3(a).

“Responsible Party” shall mean, with respect to any Tax Return, the Party having responsibility for preparing and filing such Tax Return under this Agreement.

“Retention Date” shall have the meaning set forth in Section 7.1.

“Section 336(e) Allocation Statement” shall have the meaning set forth in Section 3.4(b).

“Section 336(e) Election” shall have the meaning set forth in Section 3.4(a).

“Separation” shall mean, collectively, all of the transactions undertaken to separate the LENSAR Business from the PDL Business in connection with the Distribution.

“Separation Agreement” shall have the meaning set forth in the recitals to this Agreement.

“Straddle Period” shall mean any Tax Period that begins before and ends after the Distribution Date.

“Subsidiary” shall have the meaning set forth in the Separation Agreement.

“Substantial Authority” shall have the meaning set forth in Section 3.3(a).

“Tax” or “Taxes” shall mean any income, gross income, gross receipts, profits, capital stock, franchise, withholding, payroll, social security, workers compensation, unemployment, disability, property, ad valorem, value added, stamp, excise, severance, occupation, service, sales, use, license, lease, transfer, import, export, escheat, alternative minimum, universal service fund, estimated or other tax (including any fee, assessment, or other charge in the nature of or in lieu of any tax), imposed by any Governmental Authority or political subdivision thereof, and any interest, penalty, additions to tax or additional amounts in respect of the foregoing.

“Tax Attribute” shall mean a net operating loss, net capital loss, unused investment credit, unused foreign Tax credit, excess charitable contribution, general business credit, research and development credit, earnings and profits, basis, or any other Tax Item that could reduce a Tax or create a Tax Benefit.

“Tax Authority” shall mean, with respect to any Tax, the Governmental Authority or political subdivision thereof that imposes such Tax, and the agency (if any) charged with the collection of such Tax for such entity or subdivision.

“Tax Benefit” shall mean any refund, credit, or other item that causes reduction in otherwise required liability for Taxes.

“Tax Contest” shall mean an audit, review, examination, contest, litigation, investigation or any other administrative or judicial proceeding with the purpose or effect of redetermining Taxes (including any administrative or judicial review of any claim for refund).

“Tax Item” shall mean, with respect to any Income Tax, any item of income, gain, loss, deduction, or credit.

“Tax Law” shall mean the Law of any Governmental Authority or political subdivision thereof relating to any Tax.

“Tax Period” shall mean, with respect to any Tax, the period for which the Tax is reported as provided under the Code or other applicable Tax Law.

“Tax Records” shall mean any (i) Tax Returns, (ii) Tax Return workpapers, (iii) documentation relating to any Tax Contests, and (iv) any other books of account or records (whether or not in written, electronic or other tangible or intangible forms and whether or not stored on electronic or any other medium) maintained or required to be maintained under the Code or other applicable Tax Laws or under any record retention agreement with any Tax Authority, in each case filed or required to be filed with respect to or otherwise relating to Taxes.

“Tax Return” shall mean any report of Taxes due, any claim for refund of Taxes paid, any information return with respect to Taxes, or any other similar report, statement, declaration, or document filed or required to be filed under the Code or other Tax Law with respect to Taxes, including any attachments, exhibits, or other materials submitted with any of the foregoing, and including any amendments or supplements to any of the foregoing.

“Third Party” shall mean any Person other than the Parties or any of their respective Subsidiaries.

“Treasury Regulations” shall mean the regulations promulgated from time to time under the Code as in effect for the relevant Tax Period.

Section 1.2 Reference; Interpretation. References in this Agreement to any gender include references to all genders, and references to the singular include references to the plural and vice versa. The words “include,” “includes” and “including” when used in this Agreement shall be deemed to be followed by the phrase “without limitation.” Unless the context otherwise requires, references in this Agreement to Articles and Sections shall be deemed to be references to Articles and Sections of this Agreement. Unless the context otherwise requires, the words “hereof,” “hereby” and “herein” and words of similar meaning when used in this Agreement refer to this Agreement in its entirety and not to any particular Article, Section or provision of this Agreement. This Agreement shall not be construed against either Party as the principal draftsman hereof.

ARTICLE II. ALLOCATION OF TAX LIABILITIES

Section 2.1 General Rule.

(a) PDL Liability. Except with respect to Taxes described in Section 2.1(b), PDL shall be liable for, and shall indemnify and hold harmless the LENSAR Entities from and against any liability for:

(i) Taxes that are allocated to PDL under this Article II;

(ii) any Tax resulting from a breach of any of PDL’s covenants in this Agreement, the Separation Agreement or any Ancillary Agreement;
and

(iii) Taxes imposed on LENSAR or any LENSAR Entity pursuant to the provisions of Treasury Regulations § 1.1502-6 (or similar provisions of state, local, or foreign Tax Law) as a result of any such Entity being or having been a member of a Prior Group.

(b) LENSAR Liability. LENSAR shall be liable for, and shall indemnify and hold harmless the PDL Entities from and against any liability for:

(i) Taxes which are allocated to LENSAR under this Article II; and

(ii) any Tax resulting from a breach of any of LENSAR's covenants in this Agreement, the Separation Agreement or any Ancillary Agreement.

Section 2.2 General Allocation Principles. Except as otherwise provided in this Article II, all Taxes shall be allocated as follows:

(a) Allocation of Taxes for Joint Returns. PDL shall be responsible for all Taxes reported, or required to be reported, on any Joint Return that any PDL Entity files or is required to file under the Code or other applicable Tax Law; provided, however, that to the extent any such Joint Return includes any Tax Item attributable to any LENSAR Entity or to the LENSAR Business for any Post-Distribution Period, LENSAR shall be responsible for all Taxes attributable to such Tax Items, computed in a manner reasonably determined by PDL.

(b) Allocation of Taxes for Separate Returns.

(i) PDL shall be responsible for all Taxes reported, or required to be reported, on a PDL Separate Return.

(ii) LENSAR shall be responsible for all Taxes reported, or required to be reported, on a LENSAR Separate Return.

Section 2.3 Allocation Conventions.

(a) All Taxes allocated pursuant to Section 2.2 shall be allocated in accordance with the Closing of the Books Method; provided, however, that if applicable Tax Law does not permit a LENSAR Entity to close its Tax Period on the Distribution Date, the Tax attributable to the operations of the LENSAR Entities for any Pre-Distribution Period shall be the Tax computed using the Closing of the Books Method.

(b) Any Tax Item of LENSAR or any LENSAR Entity arising from a transaction engaged in outside of the ordinary course of business on the Distribution Date after the Effective Time shall be properly allocable to LENSAR and any such transaction by or with respect to LENSAR or any LENSAR Entity occurring after the Effective Time shall be treated for all Tax purposes (to the extent permitted by applicable Tax Law) as occurring at the beginning of the day following the Distribution Date in accordance with the principles of Treasury Regulation § 1.1502-76(b) or any similar provisions of state, local or foreign Law.

**ARTICLE III.
PREPARATION AND FILING OF TAX RETURNS**

Section 3.1 PDL Separate Returns and Joint Returns.

(a) PDL shall prepare and file, or cause to be prepared and filed, all PDL Separate Returns and Joint Returns, and each LENSAR Entity to which any such Joint Return relates shall execute and file such consents, elections and other documents as PDL may determine are required or appropriate, or otherwise requested by PDL in connection with the filing of such Joint Return. LENSAR shall make any requisite consents and will elect and join, and will cause its respective Affiliates to elect and join, in filing any Joint Returns that PDL determines are required to be filed or that PDL elects to file, in each case pursuant to this Section 3.1(a).

(b) The Parties and their respective Affiliates shall elect to close the Tax Period of each LENSAR Entity on the Distribution Date, to the extent permitted by applicable Tax Law.

Section 3.2 LENSAR Separate Returns. LENSAR shall prepare and file (or cause to be prepared and filed) all LENSAR Separate Returns.

Section 3.3 Tax Reporting Practices.

(a) General Rule. Except as provided in Section 3.3(b), PDL shall prepare any Pre-Distribution Period or Straddle Period Joint Return in accordance with past practices, permissible accounting methods, elections or conventions used by the PDL Entities and LENSAR Entities prior to the Distribution Date with respect to such Tax Return ("Past Practices") (unless the Parties jointly determine that there is not at least "substantial authority," within the meaning of Section 6662(d)(2)(B)(i) of the Code (or any corresponding or similar provision of state, local or foreign Law) ("Substantial Authority"), for the use of such Past Practices), and to the extent any items, methods or positions are not covered by Past Practices, then PDL shall prepare such Tax Return in accordance with reasonable Tax accounting practices selected by PDL. Except as provided in Section 3.3(b), LENSAR shall prepare any Pre-Distribution Period or Straddle Period LENSAR Separate Return in accordance with Past Practices (unless the Parties jointly determine that there is not at least Substantial Authority for the use of such Past Practices, and to the extent any items, methods or positions are not covered by Past Practices), then LENSAR shall prepare such Tax Return in accordance with reasonable Tax accounting practices selected by LENSAR.

(b) Consistency with Intended Tax Treatment. The Parties shall prepare all Tax Returns consistent with the Intended Tax Treatment unless, and then only to the extent, an alternative position is required pursuant to a Final Determination. Notwithstanding the foregoing, but subject to Section 3.4 and Section 3.6, PDL shall have the right to prepare Joint Returns with any relevant election, statement or other permissible approach to the Tax effects of the departure of the LENSAR Entities from the PDL consolidated or combined group.

(c) Joint Returns. With respect to any Joint Return, to the extent that the positions taken on such Joint Return would reasonably be expected to adversely affect the Tax position of any LENSAR Entity in a Post-Distribution Period, PDL shall submit a draft of the portion of such Joint Return that relates solely to the business of any LENSAR Entity to LENSAR at least

thirty (30) days prior to the due date for the filing of such Joint Return (taking into account any applicable extensions), and LENSAR shall have the right to review such portion of such Joint Return and to submit to PDL any reasonable changes to such portion of such Joint Return no later than fifteen (15) days prior to the due date for the filing of such Joint Return; provided, however, that nothing shall prevent PDL from timely filing (or causing to be timely filed) such Joint Return. The Parties agree to consult and to attempt to resolve in good faith any issues arising as a result of the review of any such Joint Return.

Section 3.4 Section 336(e) Elections.

(a) General. The Parties hereby agree that, if PDL shall determine in its sole discretion, prior to the applicable due dates for such elections, that the Parties should make elections under Section 336(e) of the Code (and any similar provision of applicable state or local Tax Law) with respect to the Distribution for each LENSAR Entity that is a domestic corporation for U.S. federal Income Tax purposes (the "Section 336(e) Elections"), then the Parties shall enter into a written, binding agreement to make the Section 336(e) Elections, and the Parties shall timely make the Section 336(e) Elections in accordance with Treasury Regulations § 1.336-2(h). For the avoidance of doubt, such agreement is intended to constitute a written, binding agreement to make the Section 336(e) Elections within the meaning of Treasury Regulations § 1.336-2(h)(1)(i).

(b) Cooperation and Reporting. PDL and LENSAR shall cooperate in making the Section 336(e) Elections, if any, including filing any statements, amending any Tax Returns or undertaking such other actions reasonably necessary to carry out the Section 336(e) Elections. PDL shall determine the "Aggregate Deemed Asset Disposition Price" and the "Adjusted Grossed-Up Basis" (each as defined under applicable Treasury Regulations) and the allocation of such Aggregate Deemed Asset Disposition Price and Adjusted Grossed-Up Basis among the disposition date assets of the applicable PDL Entities or LENSAR Entities, each in accordance with the applicable provisions of Section 336(e) of the Code and applicable Treasury Regulations (the "Section 336(e) Allocation Statement"). Each Party agrees not to take any position (and to cause each of its Affiliates not to take any position) that is inconsistent with the Section 336(e) Elections, if any, including the Section 336(e) Allocation Statement, on any Tax Return, in connection with any Tax Contest or for any other Tax purposes (in each case, excluding any position taken for financial accounting purposes), except as may be required by a Final Determination.

Section 3.5 LENSAR Carrybacks and Claims for Refund.

(a) LENSAR hereby agrees that, unless PDL consents in writing (which consent may not be unreasonably withheld, conditioned, or delayed) or as required by Law, (i) no LENSAR Entity (nor its successors) shall file any Adjustment Request with respect to any Tax Return that could affect any Joint Return or any other Tax Return reflecting Taxes that are allocated to PDL under Article II and (ii) any available elections to waive the right to claim any LENSAR Carryback in any Joint Return or any other Tax Return reflecting Taxes that are allocated to PDL under Article II shall be made, including to waive any relevant LENSAR Carrybacks under Section 172(b) of the Code (or similar provisions of state, local, or foreign Tax Law) or such other provisions available under consolidated Tax rules, and no affirmative election shall be

made to claim any such LENSAR Carryback. In the event that LENSAR (or the appropriate LENSAR Entity) is prohibited by applicable Law from waiving or otherwise forgoing a LENSAR Carryback or PDL consents to a LENSAR Carryback (which consent may not be unreasonably withheld, conditioned, or delayed), PDL shall cooperate with LENSAR, at LENSAR's expense, in seeking from the appropriate Tax Authority such Tax Benefit as reasonably would result from such LENSAR Carryback, to the extent that such Tax Benefit is directly attributable to such LENSAR Carryback, and shall pay over to LENSAR the amount of such Tax Benefit, net of any Tax detriment to the PDL Entities, within ten (10) days after such Tax Benefit is recognized by the PDL Entities; provided, however, that LENSAR shall indemnify and hold the PDL Entities harmless from and against any and all collateral Tax consequences resulting from or caused by any such LENSAR Carryback, including, without limitation, the loss or postponement of any benefit from the use of Tax Attributes generated by a PDL Entity if (i) such Tax Attributes expire unused, but would have been utilized but for such LENSAR Carryback, or (ii) the use of such Tax Attributes is postponed to a later Tax Period than the Tax Period in which such Tax Attributes would have been used but for such LENSAR Carryback.

(b) PDL hereby agrees that, unless LENSAR consents in writing (which consent may not be unreasonably withheld, conditioned, or delayed) or as required by Law, no PDL Entity shall file any Adjustment Request with respect to (i) any Joint Return for a Straddle Period if such Adjustment Request could increase the Tax liability of any LENSAR Entity or (ii) any LENSAR Separate Return.

Section 3.6 Apportionment of Tax Attributes.

(a) Tax Attributes arising in a Pre-Distribution Period will be allocated to (and the benefits and burdens of such Tax Attributes will inure to) the PDL Entities and the LENSAR Entities in accordance with the Code, Treasury Regulations, and any other applicable Tax Law and permitted elections, methods or statements determined by PDL. For the avoidance of doubt, the PDL Entities shall be entitled to utilize any Tax Attributes within a Joint Return without remuneration to any LENSAR Entity.

(b) On or before the first anniversary of the Distribution Date, PDL shall deliver to LENSAR its determination in writing of the portion, if any, of any earnings and profits, Tax Attributes, overall foreign loss or other affiliated, consolidated, combined, unitary, fiscal unity or other group basis Tax Attribute which is allocated or apportioned to the LENSAR Entities under applicable Tax Law and this Agreement (the "Allocation"). All PDL Entities and LENSAR Entities shall prepare all Tax Returns in accordance the Allocation. In the event of an adjustment to the earnings and profits, any Tax Attributes, overall foreign loss or other affiliated, consolidated, combined, unitary, fiscal unity or other group basis attribute, PDL shall promptly notify LENSAR in writing of such adjustment. For the avoidance of doubt, PDL shall not be liable to any LENSAR Entity for any failure of any determination under this Section 3.6(b) to be accurate under applicable Tax Law; provided such determination was made in good faith.

(c) Except as otherwise provided herein, to the extent that the amount of any Tax Attribute is later reduced or increased by a Tax Authority or Tax Proceeding, such reduction or increase shall be allocated to the Party to which such Tax Attribute was allocated pursuant to Section 3.6(a), as agreed by the Parties.

**ARTICLE IV.
TAX PAYMENTS**

Section 4.1 Taxes Shown on Tax Returns. PDL shall pay (or cause to be paid) to the proper Tax Authority the Tax shown as due on any Tax Return that a PDL Entity is responsible for preparing under Article III, and LENSAR shall pay (or cause to be paid) to the proper Tax Authority the Tax shown as due on any Tax Return that a LENSAR Entity is responsible for preparing under Article III.

Section 4.2 Adjustments Resulting in Underpayments. In the case of any adjustment pursuant to a Final Determination with respect to any Tax, the Party to which such Tax is allocated pursuant to this Agreement shall pay to the applicable Tax Authority when due any additional Tax required to be paid as a result of such adjustment.

Section 4.3 Indemnification Payments.

(a) If any Party (the “Payor”) is required under applicable Tax Law to pay to a Tax Authority a Tax that another Party (the “Required Party”) is liable for under this Agreement, the Required Party shall reimburse the Payor within twenty (20) Business Days of delivery by the Payor to the Required Party of an invoice for the amount due, accompanied by evidence of payment and a statement detailing the Taxes paid and describing in reasonable detail the particulars relating thereto. Except as otherwise provided in the following sentence, the Required Party shall also pay to the Payor any reasonable costs and expenses related to the foregoing (including reasonable attorneys’ fees and expenses) within five (5) days after the Payor’s written demand therefor. Notwithstanding the foregoing, if PDL or LENSAR disputes in good faith the fact or the amount of its obligation hereunder, then no payment of the amount in dispute shall be required until any such good faith dispute is resolved; provided, however, that any amount not paid by the due date otherwise provided in this Article IV shall bear interest from such due date computed at the Applicable Rate.

(b) All indemnification payments under this Agreement shall be made by PDL directly to LENSAR and by LENSAR directly to PDL; provided, however, that if the Parties mutually agree for administrative convenience with respect to any such indemnification payment, any PDL Entity, on the one hand, may make such indemnification payment to any LENSAR Entity, on the other hand, and vice versa.

**ARTICLE V.
TAX BENEFITS**

Section 5.1 Tax Refunds. PDL shall be entitled (subject to the limitations provided in Section 3.5) to any refund (and any interest thereon received from the applicable Tax Authority) of Taxes for which PDL is liable hereunder, and LENSAR shall be entitled (subject to the limitations provided in Section 3.5) to any refund (and any interest thereon received from the applicable Tax Authority) of Taxes for which LENSAR is liable hereunder.

Section 5.2 Other Tax Benefits.

(a) If a LENSAR Entity or PDL Entity actually realizes any Tax Benefit as a result of any liability, obligation, loss or payment (each, a “Loss”) for which any of a Party’s Entities is required to indemnify any of the other Party’s Entities pursuant to this Agreement, the Separation Agreement or any Ancillary Agreement (in each case, without duplication of any amounts payable or taken into account under this Agreement, the Separation Agreement or any Ancillary Agreement), and such Tax Benefit would not have arisen but for such adjustment or Loss (determined on a “with and without” basis), the Party whose Entities actually recognize such Tax Benefit in the Tax Period of the applicable Loss shall make a payment to the other Party in an amount equal to the amount of such actually recognized Tax Benefit in cash within ten (10) Business Days of actually recognizing such Tax Benefit. To the extent that any Tax Benefit (or portion thereof) in respect of which any amounts were paid over pursuant to the foregoing provisions of this Section 5.2(a) is subsequently disallowed by the applicable Tax Authority, the Party that received such amounts shall promptly repay such amounts (together with any penalties, interest or other charges imposed by the relevant Tax Authority) to the other Party.

(b) No later than ten (10) Business Days after a Tax Benefit described in Section 5.2(a) is actually recognized by a PDL Entity or a LENSAR Entity in the Tax Period of the applicable Loss, PDL or LENSAR, as the case may be, shall provide the other Party with a written calculation of the amount payable to such other Party pursuant to Section 5.2(a). In the event that PDL or LENSAR, as the case may be, disagrees with any such calculation described in this Section 5.2(b), such Party shall so notify the other Party in writing within twenty (20) Business Days of receiving such written calculation. The Parties shall endeavor in good faith to resolve such disagreement.

**ARTICLE VI.
ASSISTANCE AND COOPERATION**

Section 6.1 Assistance and Cooperation.

(a) The Parties shall cooperate (and cause their respective Affiliates to cooperate) with each other and with each other’s agents, including accounting firms and legal counsel, in connection with Tax matters relating to the Parties and their Affiliates, including (i) preparation and filing of Tax Returns, (ii) determining the liability for and amount of any Taxes due (including estimated Taxes) or the right to and amount of any refund of Taxes, (iii) examinations of Tax Returns, and (iv) any administrative or judicial proceeding in respect of Taxes assessed or proposed to be assessed. Such cooperation shall include making all information and documents in their possession relating to any other Party and its Affiliates reasonably available to such other Party as provided in Article VII. Each of the Parties shall also make available to any other Party, as reasonably requested and available, personnel (including officers, directors, employees and agents of the Parties or their respective Affiliates) responsible for preparing, maintaining, and interpreting information and documents relevant to Taxes, and personnel reasonably required as witnesses or for purposes of providing information or documents in connection with any administrative or judicial proceedings relating to Taxes.

(b) Any information or documents provided under this Agreement shall be kept confidential by the Party receiving the information or documents, except as may otherwise be necessary in connection with the filing of Tax Returns or in connection with any administrative or judicial proceedings relating to Taxes. In addition, in the event that PDL determines that the provision of any information or documents to LENSAR or any LENSAR Affiliate, or LENSAR determines that the provision of any information or documents to PDL or any PDL Affiliate, could be commercially detrimental, violate any Law or agreement or waive any Privilege, the Parties shall use commercially reasonable efforts to permit each other's compliance with its obligations under this Article VI in a manner that avoids any such harm or consequence.

Section 6.2 Tax Return Information. Each of PDL and LENSAR, and each of their respective Entities, acknowledges that time is of the essence in relation to any request for information, assistance or cooperation made pursuant to Section 6.1 or this Section 6.2. Each of PDL and LENSAR, and each of their respective Entities, acknowledges that failure to conform to the reasonable deadlines set by the Party making such request could cause irreparable harm. Each Party shall provide to the other Party information and documents relating to its Entities reasonably required by the other Party to prepare Tax Returns, including any pro forma returns required by the Responsible Party for purposes of preparing such Tax Returns. Any information or documents the Responsible Party requires to prepare such Tax Returns shall be provided in such form as the Responsible Party reasonably requests and at or prior to the time reasonably specified by the Responsible Party so as to enable the Responsible Party to file such Tax Returns on a timely basis.

Section 6.3 Reliance by PDL. If any LENSAR Entity supplies information to a PDL Entity in connection with a Tax liability and an officer of a PDL Entity signs a statement or other document under penalties of perjury in reliance upon the accuracy of such information, then upon the written request of such PDL Entity identifying the information being so relied upon, the chief financial officer of LENSAR (or any officer of LENSAR as designated by the chief financial officer of LENSAR) shall certify in writing that to his or her knowledge (based upon consultation with appropriate employees) the information so supplied is accurate and complete. LENSAR agrees to indemnify and hold harmless each PDL Entity and its directors, officers and employees from and against any fine, penalty or other cost or expense of any kind attributable to a LENSAR Entity having supplied, pursuant to this Article VI, a PDL Entity with inaccurate or incomplete information in connection with a Tax liability.

Section 6.4 Reliance by LENSAR. If any PDL Entity supplies information to a LENSAR Entity in connection with a Tax liability and an officer of a LENSAR Entity signs a statement or other document under penalties of perjury in reliance upon the accuracy of such information, then upon the written request of such LENSAR Entity identifying the information being so relied upon, the chief financial officer of PDL (or any officer of PDL as designated by the chief financial officer of PDL) shall certify in writing that to his or her knowledge (based upon consultation with appropriate employees) the information so supplied is accurate and complete. PDL agrees to indemnify and hold harmless each LENSAR Entity and its directors, officers and employees from and against any fine, penalty or other cost or expense of any kind attributable to a PDL Entity having supplied, pursuant to this Article VI, a LENSAR Entity with inaccurate or incomplete information in connection with a Tax liability.

Section 6.5 Separation Taxes. LENSAR shall (and shall cause its Affiliates to) reasonably cooperate with PDL to correct any errors in the chronology or completion of any transactions intended to facilitate, or otherwise effectuated in connection with, the Separation, and take any and all commercially reasonable actions requested by PDL to minimize any Taxes incurred in connection with the Separation.

ARTICLE VII. TAX RECORDS

Section 7.1 Retention of Tax Records. Each of PDL and LENSAR shall preserve and keep all Tax Records exclusively relating to the assets and activities of its Entities for Pre-Distribution Periods, and PDL shall preserve and keep all other Tax Records relating to Taxes of the PDL and LENSAR Entities for Pre-Distribution Periods, for so long as the contents thereof may be or become material in the administration of any matter under the Code or other applicable Tax Law, but in any event until the later of (i) the expiration of any applicable statutes of limitations, or (ii) seven (7) years after the Distribution Date (such later date, the "Retention Date"). After the Retention Date, each of PDL and LENSAR may dispose of such Tax Records upon sixty (60) Business Days' prior written notice to the other Party. If, prior to the Retention Date, (a) PDL or LENSAR reasonably determines that any Tax Records which it would otherwise be required to preserve and keep under this Article VII are no longer material in the administration of any matter under the Code or other applicable Tax Law and the other Party agrees, then such first Party may dispose of such Tax Records upon sixty (60) Business Days' prior notice to the other Party. Any notice of an intent to dispose given pursuant to this Section 7.1 shall include a list of the Tax Records to be disposed of describing in reasonable detail each file, book, or other record accumulation being disposed. The notified Parties shall have the opportunity, at their cost and expense, to copy or remove, within such sixty (60) Business Day period, all or any part of such Tax Records. If, at any time prior to the Retention Date, a Party or any of its Affiliates determines to decommission or otherwise discontinue any computer program or information technology system used to access or store any Tax Records, then such program or system may be decommissioned or discontinued upon ninety (90) Business Days' prior notice to the other Party and the other Party shall have the opportunity, at its cost and expense, to copy, within such ninety (90) Business Day period, all or any part of the underlying data relating to the Tax Records accessed by or stored on such program or system.

Section 7.2 Access to Tax Records. The Parties and their respective Affiliates shall make available to each other for inspection and copying during normal business hours upon reasonable notice all Tax Records (and, for the avoidance of doubt, any pertinent underlying data accessed or stored on any computer program or information technology system) in their possession pertaining to (i) in the case of any Tax Return of the PDL Entities, the portion of such return that relates to Taxes for which the LENSAR Entities may be liable pursuant to this Agreement or (ii) in the case of any Tax Return of the LENSAR Entities, the portion of such return that relates to Taxes for which the PDL Entities may be liable pursuant to this Agreement, and shall permit the other Party and its Affiliates, authorized agents and representatives and any representative of a Tax Authority or other Tax auditor direct access, at the cost and expense of the requesting Party, during normal business hours upon reasonable notice to any computer program or information technology system used to access or store any Tax Records, in each case to the extent reasonably required by the other Party in connection with the preparation of Tax Returns or financial accounting statements, audits, litigation, or the resolution of items under this Agreement.

Section 7.3 Preservation of Privilege. The Parties and their respective Affiliates shall not provide access to, copies of, or otherwise disclose to any Person any documentation relating to Taxes existing prior to the Distribution Date to which Privilege may reasonably be asserted without the prior written consent of the other Party, such consent not to be unreasonably withheld, conditioned or delayed.

ARTICLE VIII. TAX CONTESTS

Section 8.1 Notice. Each Party shall provide prompt notice to the other Party of any written communication from a Tax Authority regarding any pending Tax audit, assessment or proceeding or other Tax Contest of which it becomes aware (i) related to Taxes for Tax Periods for which it is indemnified by the other Party hereunder or for which it may be required to indemnify the other Party hereunder, (ii) relating to a LENSAR Separate Return that could reasonably be expected to materially adversely affect any PDL Entity, or (iii) otherwise relating to the Intended Tax Treatment or the Separation (including the resolution of any Tax Contest relating thereto). Such notice shall attach copies of the pertinent portion of any written communication from a Tax Authority and contain factual information (to the extent known) describing any asserted Tax liability in reasonable detail and shall be accompanied by copies of any notice and other documents received from any Tax Authority in respect of any such matters. If an indemnified Party has knowledge of an asserted Tax liability with respect to a matter for which it is to be indemnified hereunder and such Party fails to give the indemnifying Party prompt notice of such asserted Tax liability and the indemnifying Party is entitled under this Agreement to contest the asserted Tax liability, then (x) to the extent the indemnifying Party is precluded from contesting the asserted Tax liability in any forum as a result of the failure to give prompt notice, the indemnifying Party shall have no obligation to indemnify the indemnified Party for any Taxes arising out of such asserted Tax liability, and (y) to the extent the indemnifying Party is not precluded from contesting the asserted Tax liability in any forum, but such failure to give prompt notice results in a material monetary detriment to the indemnifying Party, then any amount which the indemnifying Party is otherwise required to pay the indemnified Party pursuant to this Agreement shall be reduced by the amount of such detriment.

Section 8.2 Control of Tax Contests.

(a) PDL Control. Notwithstanding anything in this Agreement to the contrary, PDL shall have the right to control any Tax Contest with respect to any Tax matters relating to (i) a Joint Return, (ii) a PDL Separate Return or (iii) the Intended Tax Treatment. Subject to Section 8.2(c) and Section 8.2(d), PDL shall have absolute discretion with respect to any decisions to be made, or the nature of any action to be taken, with respect to any such Tax Contest.

(b) LENSAR Control. LENSAR shall have the right to control any Tax Contest with respect to any LENSAR Separate Return. Subject to Section 8.2(c) and Section 8.2(d), LENSAR shall have (i) reasonable discretion, after consultation with PDL, with respect to any decisions to be made, or the nature of any action to be taken, with respect to any such Tax Contest relating to

a LENSAR Separate Return that could reasonably be expected to materially adversely affect any PDL Entity, and (ii) absolute discretion with respect to any decisions to be made, or the nature of any action to be taken, with respect to any other such Tax Contest.

(c) Settlement Rights. The Controlling Party shall have the sole right to contest, litigate, compromise and settle any Tax Contest without obtaining the prior consent of the Non-Controlling Party; provided, that to the extent any such Tax Contest (i) could give rise to a claim for indemnity by the Controlling Party or its Affiliates against the Non-Controlling Party or its Affiliates under this Agreement, or (ii) is with respect to a LENSAR Separate Return that could reasonably be expected to materially adversely affect any PDL Entity, then the Controlling Party shall not settle any such Tax Contest without the Non-Controlling Party's prior written consent (which consent may not be unreasonably withheld, conditioned, or delayed). Subject to Section 8.2(e), and unless waived by the Parties in writing, in connection with any potential adjustment in a Tax Contest as a result of which adjustment the Non-Controlling Party may reasonably be expected to become liable to make any indemnification payment to the Controlling Party under this Agreement: (I) the Controlling Party shall keep the Non-Controlling Party informed in a timely manner of all actions taken or proposed to be taken by the Controlling Party with respect to such potential adjustment in such Tax Contest; (II) the Controlling Party shall timely provide the Non-Controlling Party copies of any written materials relating to such potential adjustment in such Tax Contest received from any Tax Authority; (III) the Controlling Party shall timely provide the Non-Controlling Party with copies of any correspondence or filings submitted to any Tax Authority or judicial authority in connection with such potential adjustment in such Tax Contest; (IV) the Controlling Party shall consult with the Non-Controlling Party and offer the Non-Controlling Party a reasonable opportunity to comment before submitting any written materials prepared or furnished in connection with such potential adjustment in such Tax Contest; and (V) the Controlling Party shall defend such Tax Contest diligently and in good faith. The failure of the Controlling Party to take any action specified in the preceding sentence with respect to the Non-Controlling Party shall not relieve the Non-Controlling Party of any liability and/or obligation which it may have to the Controlling Party under this Agreement except to the extent that the Non-Controlling Party was actually harmed by such failure, and in no event shall such failure relieve the Non-Controlling Party from any other liability or obligation which it may have to the Controlling Party. In the case of any Tax Contest described in this Article VIII, "Controlling Party" means the Party entitled to control the Tax Contest under this Article VIII and "Non-Controlling Party" means (x) PDL if LENSAR is the Controlling Party and (y) LENSAR if PDL is the Controlling Party.

(d) Tax Contest Participation. Subject to Section 8.2(e), and unless waived by the Parties in writing, the Controlling Party shall provide the Non-Controlling Party with written notice reasonably in advance of, and the Non-Controlling Party shall have the right to attend, any formally scheduled meetings with Tax Authorities or hearings or proceedings before any judicial authorities in connection with any potential adjustment in a Tax Contest (i) pursuant to which the Non-Controlling Party may reasonably be expected to become liable to make any indemnification payment to the Controlling Party under this Agreement or (ii) that is with respect to a LENSAR Separate Return that could reasonably be expected to materially adversely affect any PDL Entity. The failure of the Controlling Party to provide any notice specified in this Section 8.2(d) to the Non-Controlling Party shall not relieve the Non-Controlling Party of any liability or obligation which it may have to the Controlling Party under this Agreement except to

the extent that the Non-Controlling Party was actually harmed by such failure, and in no event shall such failure relieve the Non-Controlling Party from any other liability or obligation which it may have to the Controlling Party.

(e) Joint Returns. Notwithstanding anything in this Article VIII to the contrary, in the case of a Tax Contest related to a Joint Return, the rights of LENSAR and its Affiliates under Section 8.2(c) and Section 8.2(d) shall be limited in scope to the portion of such Tax Contest relating to Taxes for which LENSAR may reasonably be expected to become liable to make any indemnification payment to PDL under this Agreement.

(f) Power of Attorney. Each LENSAR Entity shall execute and deliver to PDL (or such PDL Entity as PDL shall designate) any power of attorney or other similar document reasonably requested by PDL (or such designee) in connection with any Tax Contest (as to which PDL is the Controlling Party) described in this Article VIII. Each PDL Entity shall execute and deliver to LENSAR (or such LENSAR Entity as LENSAR shall designate) any power of attorney or other similar document requested by LENSAR (or such designee) in connection with any Tax Contest (as to which LENSAR is the Controlling Party) described in this Article VIII.

ARTICLE IX. TAX TREATMENT OF PAYMENTS

Section 9.1 General Rule. Unless otherwise required by applicable Law, the Parties will treat any indemnity payment made pursuant to this Agreement or any Ancillary Agreement by PDL to LENSAR, or vice versa, in the same manner as if such payment were a non-taxable distribution or capital contribution, as the case may be, made immediately prior to the Distribution, except to the extent that PDL and LENSAR treat a payment as the settlement of an intercompany liability; provided, however, that any such payment that is made or received by a Person other than PDL or LENSAR, as the case may be, shall be treated as if made or received by the payor or the recipient as agent for PDL or LENSAR, in each case as appropriate.

Section 9.2 Interest. Anything herein or in the Separation Agreement to the contrary notwithstanding, to the extent one Party makes a payment of interest to the other Party under this Agreement with respect to the period from the date that the Party receiving the interest payment made a payment of Tax to a Tax Authority to the date that the Party making the interest payment reimbursed the Party receiving the interest payment for such Tax payment, the interest payment shall be treated as interest expense to the Party making such payment (deductible to the extent provided by Law) and as interest income by the Party receiving such payment (includible in income to the extent provided by Law). The amount of the payment shall not be adjusted to take into account any associated Tax Benefit to the Party making such payment or increase in Tax to the Party receiving such payment.

ARTICLE X. GROSS-UP OF INDEMNIFICATION PAYMENTS

Section 10.1 Gross-Up of Indemnification Payments. Except to the extent provided in Section 9.2, any Tax indemnity payment made by a Party under this Agreement shall be

increased as necessary so that after making all payments in respect to Taxes imposed on or attributable to such indemnity payment, the recipient Party receives an amount equal to the sum it would have received had no such Taxes been imposed.

ARTICLE XI. MISCELLANEOUS

Section 11.1 Complete Agreement; Construction. This Agreement and the Ancillary Agreements shall constitute the entire agreement between the Parties with respect to the subject matter hereof and shall supersede all previous negotiations, commitments and writings with respect to such subject matter. For the avoidance of doubt, the preceding sentence shall apply to all other agreements, whether or not written, in respect of any Tax between or among any PDL Entity or PDL Entities, on the one hand, and any LENSAR Entity or LENSAR Entities, on the other hand, which agreements shall be of no further effect between the parties thereto and any rights or obligations existing thereunder shall be fully and finally settled, calculated as of the date hereof. Except as expressly set forth in the Separation Agreement or any Ancillary Agreement: (i) all matters relating to Taxes and Tax Returns of the Parties and their respective Subsidiaries, to the extent such matters are the subject of this Agreement, shall be governed exclusively by this Agreement; and (ii) for the avoidance of doubt, in the event of any conflict between the Separation Agreement or any Ancillary Agreement, on the one hand, and this Agreement, on the other hand, with respect to such matters, the terms and conditions of this Agreement shall govern.

Section 11.2 Other Agreements. Except as may be expressly stated herein, this Agreement is not intended to address, and should not be interpreted to address, the matters specifically and expressly covered by the Separation Agreement or the Ancillary Agreements.

Section 11.3 Counterparts. This Agreement may be executed in one or more counterparts, all of which shall be considered one and the same agreement, and shall become effective when one or more such counterparts have been signed by each of the Parties and delivered to the other Party.

Section 11.4 Survival of Agreements. Except as otherwise contemplated by this Agreement, all covenants and agreements of the Parties contained in this Agreement shall survive the Distribution Date.

Section 11.5 Notices. All notices and other communications hereunder shall be in writing, shall reference this Agreement and shall be hand delivered or mailed by registered or certified mail (return receipt requested) to the Parties at the following addresses (or at such other addresses for a Party as shall be specified by like notice) and will be deemed given on the date on which such notice is received:

To PDL BioPharma, Inc.:
PDL BioPharma, Inc.
932 Southwood Boulevard
Incline Village, Nevada 89451
Attention: General Counsel

To LENSAR, Inc.:
LENSAR, Inc.
2800 Discovery Drive
Orlando, Florida 32826
Attention: General Counsel

Section 11.6 Waivers. The failure of any Party to require strict performance by any other Party of any provision in this Agreement will not waive or diminish that Party's right to demand strict performance thereafter of that or any other provision hereof.

Section 11.7 Amendments. This Agreement may not be modified or amended except by an agreement in writing signed by each of the Parties.

Section 11.8 Assignment. This Agreement shall not be assignable, in whole or in part, directly or indirectly, by any Party without the prior written consent of the other Party, and any attempt to assign any rights or obligations arising under this Agreement without such consent shall be void; provided, however, that either Party may assign this Agreement to a purchaser of all or substantially all of the properties and assets of such Party so long as such purchases expressly assumes, in a written instrument in form reasonably satisfactory to the non-assigning Party, the due and punctual performance or observance of every agreement and covenant of this Agreement on the part of the assigning Party to be performed or observed.

Section 11.9 Successors and Assigns. The provisions to this Agreement shall be binding upon, inure to the benefit of and be enforceable by the Parties and their respective successors and permitted assigns.

Section 11.10 Subsidiaries. Each of the Parties shall cause to be performed, and hereby guarantees the performance of, all actions, agreements and obligations set forth herein to be performed by any entity that is contemplated to be a Subsidiary of such Party after the Distribution Date.

Section 11.11 Title and Headings. Titles and headings to Sections herein are inserted for convenience of reference only and are not intended to be a part of or to affect the meaning or interpretation of this Agreement.

Section 11.12 Governing Law. This Agreement shall be governed by and construed in accordance with the Laws of the State of Delaware applicable to contracts made and to be performed in the state of Delaware.

Section 11.13 Waiver of Jury Trial. The Parties hereby irrevocably waive any and all right to trial by jury in any legal proceeding arising out of or related to this Agreement.

Section 11.14 Specific Performance. From and after the Distribution, in the event of any actual or threatened default in, or breach of, any of the terms, conditions and provisions of this Agreement, the Parties agree that the Party to this Agreement who is or is to be thereby aggrieved shall have the right to specific performance and injunctive or other equitable relief of its rights under this Agreement, in addition to any and all other rights and remedies at Law or in equity, and all such rights and remedies shall be cumulative. The Parties agree that, from and after the Distribution, the remedies at Law for any breach or threatened breach of this Agreement, including monetary damages, are inadequate compensation for any loss, that any defense in any action for specific performance that a remedy at Law would be adequate is hereby waived, and that any requirements for the securing or posting of any bond with such remedy are hereby waived.

Section 11.15 Severability. In the event any one or more of the provisions contained in this Agreement should be held invalid, illegal or unenforceable in any respect, the validity, legality and enforceability of the remaining provisions contained herein and therein shall not in any way be affected or impaired thereby. The Parties shall endeavor in good faith negotiations to replace the invalid, illegal or unenforceable provisions with valid provisions, the economic effect of which comes as close as possible to that of the invalid, illegal or unenforceable provisions.

Section 11.16 Payment Terms.

(a) Except as otherwise expressly provided to the contrary in this Agreement, any amount to be paid or reimbursed by a Party (where applicable, or one of such Party's Entities) to the other Party (where applicable, or one of such other Party's Entities) under this Agreement shall be paid or reimbursed hereunder within sixty (60) days after presentation of an invoice or a written demand therefor, in either case setting forth, or accompanied by, reasonable documentation or other reasonable explanation supporting such amount.

(b) Except as expressly provided to the contrary in this Agreement, any amount not paid when due pursuant to this Agreement (and any amount billed or otherwise invoiced or demanded and properly payable that is not paid within sixty (60) days of such bill, invoice or other demand) shall bear interest at a rate per annum equal to the Applicable Rate, calculated for the actual number of days elapsed, accrued from the date on which such payment was due up to the date of the actual receipt of payment.

(c) Without the consent of the Party receiving any payment under this Agreement specifying otherwise, all payments to be made by either PDL or LENSAR under this Agreement shall be made in U.S. dollars. Except as expressly provided herein, any amount which is not expressed in U.S. dollars shall be converted into U.S. dollars by using the exchange rate published on Bloomberg at 5:00 pm, Eastern time, on the day before the relevant date, or in The Wall Street Journal on such date if not so published on Bloomberg. Except as expressly provided herein, in the event that any Tax indemnity payment required to be made hereunder may be denominated in a currency other than U.S. dollars, the amount of such payment shall be converted into U.S. dollars on the date in which notice of the claim is given to the indemnifying Party.

Section 11.17 No Admission of Liability. The allocation of assets and liabilities herein is solely for the purpose of allocating such assets and liabilities between PDL and LENSAR and is not intended as an admission of liability or responsibility for any alleged liabilities vis-à-vis any Third Party, including with respect to the liabilities of any non-wholly owned subsidiary of PDL or LENSAR.

[Signature Page Follows]

IN WITNESS WHEREOF, the Parties have caused this Agreement to be duly executed as of the day and year first above written.

PDL BioPharma, Inc.

By: /s/ Dominique Monnet

Name: Dominique Monnet

Title: President and Chief Executive Officer

LENSAR, Inc.

By: /s/ Nick Curtis

Name: Nick Curtis

Title: Chief Executive Officer

[Signature Page to Tax Matters Agreement]

2800 DISCOVERY DRIVE
ORLANDO, FL 32826

**Contacts:**

Thomas R. Staab, II
ir.contact@lensar.com

LENSAR, Inc. Begins Trading on NASDAQ

ORLANDO, FL (October 2, 2020) – LENSAR, Inc. (NASDAQ: LNSR) (“LENSAR” or “the Company”), a global medical technology company focused on femtosecond laser surgical solutions for the treatment of cataracts, today announced the completion of its spin-off from PDL BioPharma, Inc. (NASDAQ: PDLI) (“PDL”). Beginning today, LENSAR shares will commence “regular-way” trading on the NASDAQ Stock Market.

The distribution of LENSAR common stock took place on October 1, 2020. PDL stockholders received 0.075879 shares of LENSAR common stock for every one share of PDL common stock outstanding at 5:00 p.m., Eastern Time, on September 22, 2020, the record date for the spin-off. Stockholders of PDL who have acquired shares of PDL common stock in the “regular way” market since shortly before the record date and through October 1, 2020 acquired such shares with an entitlement to receive shares of LENSAR common stock in connection with the distribution. Stockholders of PDL who acquired their shares of PDL common stock ex-distribution during that time did so without an entitlement to receive shares of LENSAR common stock in connection with the distribution.

About LENSAR

LENSAR is a commercial-stage medical device company focused on designing, developing and marketing an advanced femtosecond laser system for the treatment of cataracts and the management of pre-existing or surgically induced corneal astigmatism. Its LENSAR Laser System incorporates a range of proprietary technologies designed to assist the surgeon in obtaining better visual outcomes, efficiency and reproducibility by providing advanced imaging, simplified procedure planning, efficient design and precision.

Forward-looking Statements

This press release contains “forward-looking statements” within the meaning of Section 27A of the Securities Act of 1933, as amended, and Section 21E of the Securities Exchange Act of 1934, as amended, including as it relates to the Company’s regular-way trading. Each of these forward-looking statements involves risks and uncertainties. Actual results may differ materially from those, express or implied, in these forward-looking statements. Important factors that could impair the value of the Company’s assets and business are disclosed under the heading “Risk Factors” contained in the Company’s Form 10 Registration Statement, as amended, filed with the Securities and Exchange Commission. All forward-looking statements are expressly qualified in their entirety by such factors. The Company does not undertake any duty to update any forward-looking statement except as required by law.