

## PATENT ASSIGNMENT

Electronic Version v1.1  
 Stylesheet Version v1.1

SUBMISSION TYPE:	NEW ASSIGNMENT
NATURE OF CONVEYANCE:	PAY-OFF LETTER INDICATING TERMINATION OF SECURITY INTEREST
CONVEYING PARTY DATA	
Name	Execution Date
Guidant Investment Corporation	08/15/2007
RECEIVING PARTY DATA	
Name:	CardioNet, Inc.
Street Address:	227 Washington Street #300
City:	Conshohocken
State/Country:	PENNSYLVANIA
Postal Code:	19428
PROPERTY NUMBERS Total: 9	
Property Type	Number
Patent Number:	5959529
Patent Number:	6225901
Patent Number:	6569095
Patent Number:	6664893
Patent Number:	6665385
Patent Number:	6694177
Patent Number:	6801137
Patent Number:	6940403
Patent Number:	6957107
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CH \$360.00 5959529

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ATTORNEY DOCKET NUMBER: 16491-0001001

NAME OF SUBMITTER: Drew W. Schoentrup

**Total Attachments: 68**

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August 10, 2007

Guidant Investment Corporation  
c/o Guidant Corporation  
4100 Hamline Ave. N.  
St. Paul, MN 55112

**Re: Repayment of Amended and Restated Subordinated Promissory Note between CardioNet, Inc. ("CardioNet") and Guidant Investment Corporation ("Guidant") dated as of May 30, 2006 (the "Note")**

Ladies and Gentlemen:

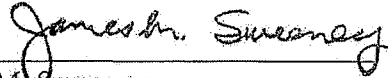
This letter agreement will confirm the mutual understanding of CardioNet and Guidant regarding the repayment by CardioNet to Guidant of the Note. CardioNet and Guidant hereby agree as follows:

1. In connection with the execution of this letter agreement, (i) CardioNet shall wire \$24,428,969.22 to Guidant, representing all outstanding principal on the Note and interest outstanding on the Note through July 10, 2007, which CardioNet and Guidant hereby agree constitutes payment in full of the Note (the "Payoff Amount"), and (ii) upon receipt of the Payoff Amount, Guidant agrees and acknowledges that the Note shall be deemed cancelled, and shall deliver to CardioNet the original Note, which Note shall be marked "Cancelled."
2. Upon receipt of the Payoff Amount, each of the following agreements shall terminate in its entirety and be of no further legal force or effect: (i) the Credit Agreement dated November 12, 2003 between CardioNet and Guidant, as amended (the "Credit Agreement") and (ii) the Security and License Agreement dated November 12, 2003 by and between CardioNet and Guidant (the "License Agreement"). Upon receipt of the Payoff Amount, the parties agree that CardioNet shall have no further obligations under the Note, the Credit Agreement or the License Agreement, and that (a) all security interests that Guidant has in any of CardioNet's property shall be terminated, including that represented by any UCC filing related thereto, and (b) that CardioNet or its counsel thereafter is authorized to file all appropriate termination or release statements in respect of those security interests.
3. This letter agreement may be executed in two counterparts, each of which shall be deemed an original, but both of which together shall constitute one and the same instrument. Facsimile signatures shall be valid as originals.
4. The provisions of this letter agreement shall be binding upon a party's successors in interest. Each party hereto agrees to execute and deliver, or cause to be executed and delivered, such further instruments or documents or take such other actions as may be reasonably necessary to consummate the transactions contemplated by this letter agreement.

5. This letter agreement, and the rights of the parties hereto, shall be governed by and construed in accordance with the laws of the State of California as such laws apply to agreements among California residents made and to be performed entirely within the State of California.

Please confirm your agreement to the foregoing by signing and dating two copies of this letter in the space provided below and returning one fully executed copy to me.

CARDIONET, INC.



James M. Sweeney  
*Chairman and CEO*

Agreed and accepted as of August 15, 2007

GUIDANT INVESTMENT CORPORATION

By: 

Its: V.P.

CREDIT AGREEMENT

By and Between

CardioNet, Inc.

(Borrower)

and

Guidant Investment Corporation

(Lender)

Dated as of November 12, 2003

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\$20,000,000

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EXHIBITS AND SCHEDULES

<u>No.</u>	<u>Description</u>
Schedule 1	Existing Encumbrances
Exhibit 2.1(b)	Form of Promissory Note
Exhibit 3.1(e)	Form of Security and License Agreement

## CREDIT AGREEMENT

THIS CREDIT AGREEMENT (this "Agreement") is entered into as of the date on the cover of this Agreement between CardioNet, Inc., a California corporation (the "Borrower"), and Guidant Investment Corporation, a California corporation (the "Lender").

### W I T N E S S E T H:

In consideration of the premises and mutual agreements herein contained, the parties hereto agree as follows:

#### ARTICLE 1

##### Definitions

In addition to any terms defined elsewhere in this Agreement, the following terms have the meanings indicated for purposes of this Agreement (such definitions being equally applicable to the singular and plural forms of the defined term):

"Acceleration" means that the Loan (a) shall not have been paid at the Maturity Date, or (b) shall have become due and payable prior to its stated maturity pursuant to Section 7.2 hereof.

"Agreement" or "Credit Agreement" means this Credit Agreement, as from time to time amended, modified or supplemented.

"Banking Day" means a day other than a Saturday or a Sunday when commercial banks are open for business in San Francisco, California.

"Borrower" shall have the meaning specified in the heading to this Agreement.

"Borrower Reports" shall have the meaning set forth in Section 4.11(b) of this Agreement.

"Change of Control" means the occurrence of any of the following events: (a) the sale, lease, exclusive license, pledge, exchange or other transfer of all or substantially all of the assets or stock of the Borrower; (b) the Borrower is merged or consolidated with or into another corporation with the effect that the common stockholders of the Borrower immediately prior to such merger or consolidation hold less than fifty percent (50%) of the ordinary voting power of the outstanding securities of the surviving corporation of such merger or the corporation resulting from such consolidation; or (c) a Person or group (as such term is used in Rule 13d-5 under the Securities Exchange Act of 1934, as amended (the "Exchange Act")) of Persons shall, as a result of a tender or exchange offer, open market purchases, merger, privately negotiated purchases or otherwise, have become, directly or indirectly, the beneficial owner (within the meaning of Rule 13d-3 under the Exchange Act of securities having fifty percent (50%) or more of the ordinary voting power of then outstanding securities of Borrower; provided, however, that a "Change of Control" shall not be deemed to have occurred upon the closing of a firmly underwritten public offering of shares of

Borrower's common stock pursuant to a registration statement under the Securities Act of 1933, as amended.

"Code" means the Internal Revenue Code of 1986, as amended.

"Collateral" shall have the meaning set forth in Section 2 of the Loan and Security Agreement.

"Development Agreement" shall have the meaning set forth in Section 5.10 hereof.

"Development Project" shall have the meaning set forth in Section 5.10 hereof.

"Dollars" and "\$" mean United States Dollars.

"Effective Date" means the date of this Agreement.

"Environmental Claim" means all claims, however asserted, by any Governmental Authority or other Person alleging liability or responsibility for violation of any Environmental Law or for release or injury to the environment or threat to public health, personal injury (including sickness, disease or death), property damage, natural resources damage, or otherwise alleging liability or responsibility for damages (punitive or otherwise), cleanup, removal, remedial or response costs, restitution, civil or criminal penalties, injunctive relief, or other type of relief.

"Environmental Laws" means any Governmental Requirement pertaining to land use, air, soil, surface water, groundwater (including the protection, cleanup, removal, remediation or damage thereof), public or employee health or safety or any other environmental matter, including without limitation, the following laws as the same may be amended from time to time:

- (1) Clean Air Act (42 U.S.C. Section 7401, et seq.);
- (2) Clean Water Act (33 U.S.C. Section 1251, et seq.);
- (3) Resource Conservation and Recovery Act (42 U.S.C. Section 6901, et seq.);
- (4) Comprehensive Environmental Response, Compensation and Liability Act (42 U.S.C. Section 9601, et seq.);
- (5) Safe Drinking Water Act (42 U.S.C. Section 300f, et seq.);
- (6) Toxic Substances Control Act (15 U.S.C. Section 2601, et seq.);
- (7) Rivers and Harbors Act (33 U.S.C. Section 401, et seq.);
- (8) Endangered Species Act (16 U.S.C. Section 1531, et seq.); and
- (9) Occupational Safety and Health Act (29 U.S.C. Section 651, et seq.).

"ERISA" means the Employee Retirement Income Security Act of 1974, as amended.

"Event of Default" shall have the meaning set forth in Article 7 hereof.

"First Disbursement Date" means the date on which the first disbursement of the Loan occurs. The First Disbursement Date shall be the date of execution of this Agreement, subject to satisfaction of the conditions described herein.

"GAAP" means generally accepted accounting principles set forth in the pronouncements of the Financial Accounting Standards Board or in such other statements, opinions or interpretive releases by such other entities as may be approved by a significant segment of the accounting profession, which are applicable to the circumstances as of the date of determination, applied on a consistent basis.

"Governmental Approvals" means any consent, right, exemption, concession, permit, license, authorization, certificate, order, franchise, determination or approval of any federal, state, provincial, municipal or governmental department, commission, board, bureau, agency or instrumentality required for the ownership of, or activities of the Borrower or any other Person in connection with the business, assets or properties of the Borrower.

"Governmental Authority" means any nation or government, any state, province or other political subdivision thereof or any entity exercising executive, legislative, judicial, regulatory or administrative functions of or pertaining to government.

"Governmental Requirements" means all legal requirements in effect from time to time including all laws, statutes, codes, acts, ordinances, orders, judgments, decrees, injunctions, rules, regulations, permits, licenses, authorizations, certificates, orders, franchises, determinations, approvals, notices, demand letters, directions and requirements of all Governmental Authorities, departments, commissions, boards, courts, authorities, agencies, officials and officers, and all instruments of record, foreseen or unforeseen, ordinary or extraordinary, including but not limited to any change in any law, regulation or the interpretation thereof by any foreign or domestic Governmental Authority (whether or not having the force of law), relating now or at any time heretofore or hereafter to the business or operations of the Borrower or to any of the property owned, leased or used by the Borrower, including, without limitation, the development, design, construction, acquisition, start-up, ownership and operation and maintenance of property.

"Hazardous Substance" means any pollutant, contaminant, toxic or hazardous substance, material, constituent or waste as such terms are defined in or pursuant to any Environmental Law.

"Incipient Default" shall have the meaning set forth in Section 3.1(c) hereof.

"Indebtedness" means (a) any obligation for borrowed money; (b) any obligation evidenced by bonds, debentures, notes or other similar instruments; (c) any obligation to pay the deferred purchase price of property or for services (other than in the ordinary course of business); (d) any capitalized lease obligation; (e) any obligation or liability secured by a lien on any asset of the Borrower, whether or not such obligation or liability is assumed; and (f) any other long-term obligation or liability which is required by GAAP to be shown as part of the liabilities on a balance sheet.

"Indemnified Matters" shall have the meaning set forth in Section 9.7 hereof.

"Insolvency Proceeding" means (a) any voluntary or involuntary case, action or proceeding before any court or other Governmental Authority relating to bankruptcy, reorganization, insolvency, liquidation, receivership, dissolution, winding-up or relief of debtors; and (b) any general assignment for the benefit of creditors, composition, marshalling of assets for creditors or other, similar arrangement.

"Investment," as applied to any party, means any direct or indirect ownership or purchase or other acquisition by that party of any capital stock, equity interest, obligations or other securities, or a beneficial interest in any capital stock, equity interest, obligations, or other securities, or all or substantially all assets used to conduct a business or a line of business, or any direct or indirect loan, or capital contribution by that party to any other party, or any joint venture or other arrangement involving the sharing of profits or losses from joint business activities.

"Lender" shall have the meaning specified in the heading to this Agreement.

"Lender Indemnitees" shall have the meaning specified in Section 9.1 hereof.

"Lien" means any mortgage, deed of trust, pledge, hypothecation, assignment, encumbrance, lien (statutory or other) or preference, priority or other security interest.

"Loan" shall have the meaning set forth in Section 2.1(a) hereof.

"Loan Documents" means this Agreement, the Note, the Security and License Agreement and all agreements, instruments and documents (including, without limitation, if any, security agreements, loan agreements, notes, fee agreements, guaranties, mortgages, deeds of trust, subordination agreements, pledges, assignments of intellectual property, powers of attorney, consents, assignments, financing statements, reimbursement agreements) heretofore, now or hereafter executed by, on behalf of or for the benefit of the Borrower and delivered to the Lender pursuant to or in connection with this Agreement to evidence the Obligations or the security interest of Lender in the Collateral or the transactions contemplated hereby, together with all amendments, modifications and supplements thereto.

"Material Adverse Effect" means a material adverse effect on the business, assets, or financial condition of the Borrower and its subsidiaries considered as a whole.

"Material Indebtedness" has the meaning specified in Section 7.1(e) hereof.

"Maturity" means the date on which the Loan or any portion thereof becomes due and payable whether as stated, by virtue of mandatory prepayment, by acceleration or otherwise.

"Maturity Date" means the date that is four (4) years from the Effective Date.

"Note" has the meaning specified in Section 2.1(b) hereof.

"Obligations" means all loans, advances, debts, liabilities, obligations, covenants and duties owing, to the Lender by the Borrower arising under any Loan Document, of any kind or nature, present or future, whether or not evidenced by any note, guaranty or other instrument, whether or not for the payment of money, arising by reason of an extension of credit, absolute or contingent, due or to become due, now existing or hereafter arising, including all principal, interest, charges, expenses, fees, reasonable attorneys' fees and disbursements and any other sum chargeable to the Borrower under this Agreement or any other Loan Document.

"Permissible Bank" means any bank or trust company organized under the laws of the United States of America or any state thereof and having capital and surplus of an aggregate amount not less than five hundred million dollars (\$500,000,000).

"Permitted Dispositions" means any sale, disposition or transfer of assets (a) in the ordinary course of business; (b) which are deemed by the Borrower to be surplus, worn-out or obsolete; (c) of a subsidiary of the Borrower; or (d) pursuant to an upgrade or exchange, in each case in the ordinary course of business and for usual and ordinary prices.

"Permitted Encumbrances" means: (a) liens arising (i) in connection with worker's compensation and unemployment insurance or other types of social security, or (ii) to secure the performance of tenders, statutory obligations (other than excise taxes), surety, stay, customs and appeal bonds, statutory bonds, bids, leases, government contracts, trade contracts, performance and return of money bonds and other similar obligations incurred in the ordinary course of business or (iii) by virtue of deposits made in the ordinary course of business to secure liability for premiums to insurance carriers; (b) any lien existing or arising by operation of law in the ordinary course of business, such as a banker's lien or similar right of offset; (c) liens for taxes, fees, assessments or other government charges or levies, either not delinquent or being contested in good faith by appropriate proceedings and for which Borrower is maintaining any reserves required by GAAP; (d) liens arising from judgments, decrees or attachments in circumstances not constituting an Event of Default hereunder; (e) easements, reservations, rights-of-way, restrictions, minor defects or irregularities in title or similar encumbrances affecting real property not interfering in any material respect with the ordinary conduct of business; (f) liens in favor of customs and revenue authorities arising in the ordinary course of business; (g) liens (including a lien consisting of the rights of a lessor under a sale-leaseback transaction) created in connection with the acquisition of equipment or software, which liens secure obligations in respect of the acquisition of such equipment or software, as applicable (and no other obligations); (h) liens securing Indebtedness not in excess of one million dollars (\$1,000,000) in the aggregate at any time outstanding; (i) leases or subleases and non-exclusive licenses or sublicenses granted to third parties in the ordinary course of Borrower's business if such are otherwise permitted under this Agreement and do not interfere in any material respect with the business of Borrower, (j) liens existing on the date of this Agreement, each of which is listed on Schedule 1 attached hereto, (k) carriers', warehousemen's, mechanics', landlords', materialmen's, repairmen's or other similar liens arising in the ordinary course of business which are not delinquent or remain payable without penalty or which are being contested in good faith and by appropriate proceedings, (l) liens on equipment and other personal property securing capital and operating lease obligations not in excess of one million dollars (\$1,000,000), or (m) liens subordinated to Lender's liens pursuant to this Agreement or the other Loan Documents.

"Person" means any individual, corporation, partnership, trust, association or other entity or organization, including any government, political subdivision, agency or instrumentality thereof.

"Second Disbursement Date" means the date on which the second disbursement of the Loan occurs. The Second Disbursement Date shall be the date designated in a written notice from the Borrower to the Lender (which date shall be not less than two (2) Banking Days after receipt by the Lender of such notice); provided, however, that (a) the Lender shall not be required to make any disbursement if the conditions thereto are not satisfied, (b) the Lender shall in no event be required to make the second disbursement of the Loan prior to April 30, 2004, and (c) the Lender shall not be required to make any disbursement after December 31, 2004.

"Security and License Agreement" has the meaning specified in Section 3.1(e) hereof.

"Services Agreement" has the meaning specified in Section 5.10 hereof.

## ARTICLE 2

### Loan

#### 2.1 Loan.

(a) Loan. Subject to all of the terms and conditions of this Agreement, Lender agrees to make a loan (the "Loan") to the Borrower in the principal amount of twenty million dollars (\$20,000,000) to be governed by the terms and conditions of, and repaid in accordance with, this Agreement. The Loan will be made in two disbursements: one of each of the First Disbursement Date and the Second Disbursement Date. In no event shall the Lender be obligated to loan to Borrower more than twenty million dollars (\$20,000,000) in total principal amount under the terms of this Agreement. The Borrower shall use the proceeds of the Loan solely for the purposes specified in Section 6.2 hereof. Amounts repaid in respect of the Loan (whether repaid when due or prepaid) may not be reborrowed by the Borrower.

(b) Note. The Borrower's obligation to the Lender to repay the Loan shall be evidenced by a promissory note of the Borrower substantially in the form attached hereto as Exhibit 2.1(b) (the "Note").

(c) Disbursement. Upon the prior or contemporaneous satisfaction of all the applicable conditions precedent set forth in Article 3 hereof, or waiver by the Lender of any conditions not so satisfied, the Lender shall make each disbursement of the Loan to the Borrower (or to such other Person as the Borrower may designate in writing) by wire transfer of immediately available funds to such bank account as is specified in writing by Borrower to Lender.

#### 2.2 Interest.

(a) Interest. The outstanding principal amount of the Loan shall bear simple interest during each calendar quarter during the term of the Loan at a rate equal to the Prime Rate as published in the Money Rates section of The Wall Street Journal as of the first day of such calendar quarter plus one percent (1%).

(b) Computation of Interest. Interest shall be computed for the actual number of days elapsed on the basis of a year consisting of 365 days.

### 2.3 Payments.

(a) Loan and Interest Payment. The Borrower shall repay the entire outstanding principal amount of the Loan in full, and any accrued and unpaid interest thereon, on the Maturity Date. The Borrower shall make payments of accrued interest on the fifth (5<sup>th</sup>) Banking Day of January each year during the term of the Loan.

(b) Optional Prepayment. Upon not less than five (5) Banking Days' prior written notice to the Lender, the Borrower may at any time prepay the entire outstanding principal amount of the Loan or any portion thereof; provided that (i) all accrued and unpaid interest on the amount so prepaid shall be paid in full and (ii) in the case of a prepayment of less than the entire outstanding principal amount of the Loan, the principal amount prepaid must be at least one million dollars (\$1,000,000). Amounts prepaid may not be reborrowed.

(c) Change of Control Repayment. Upon the occurrence of a Change of Control, the Borrower shall immediately notify the Lender in writing of such occurrence and offer to pay to the Lender the outstanding principal amount of the Loan, plus all interest accrued and unpaid to date, plus any other amounts owing under the Obligations. The Lender shall have the right to require the Borrower to repay the Loan in accordance with this Section 2.3(c) by giving the Borrower written notice to such effect. The Borrower shall repay such amounts within ten (10) Banking Days after it receives the Lender's notice. The Lender shall have no further obligation to make any further disbursements under this Agreement following such Change of Control, whether or not the Borrower's offer to repay is accepted by the Lender.

(d) Payments by the Borrower. All payments (including prepayments) to be made by the Borrower on account of principal and interest shall be made without set-off or counterclaim and shall be made to the Lender by wire transfer in dollars and in immediately available funds to Citibank New York, NY, A.B.A. No. 021-000-089, Account No. 40-685-649, Account Name: Guidant Corporation, or such other location as the Lender may designate in writing to the Borrower from time to time, such payments to be made no later than 3:00 pm (Eastern Time) on the Banking Day on which payment is due. Any payment which is received by the Lender later than 3:00 pm (Eastern Time) shall be deemed to have been received on the immediately succeeding Banking Day. Whenever any payment hereunder shall be stated to be due on a day other than a Banking Day, such payment shall be made on the next succeeding Banking Day, and such extension of time shall in such case be included in the computation of interest.

(e) Offset. In addition to and not in limitation of all rights of offset that the Lender may have under applicable law, Lender, upon the occurrence and during the continuance of an Acceleration, shall have the right to appropriate and apply to the payment of all Obligations any and all amounts that Lender may owe Borrower for any reason. Lender agrees promptly to notify the Borrower after any such offset and application; provided, however, that the failure to give such notice shall not affect the validity of such offset and application. The rights of Lender under this Section 2.3(e) are in addition to the other rights and remedies which the Lender may have.



## ARTICLE 3

### Conditions Precedent

#### 3.1 Conditions to First Disbursement.

The obligation of the Lender to make the first disbursement of the Loan shall be subject to the prior or contemporaneous satisfaction of each of the following conditions:

(a) Delivery of Documents. The Note shall have been duly executed and delivered to the Lender on the First Disbursement Date;

(b) Reports, Certificates and Other Information. The Lender shall have received the following, dated and in full force and effect as of the First Disbursement Date:

(i) a certificate of the Secretary or an Assistant Secretary of the Borrower as to authorization of the execution, delivery and performance of this Agreement and all of the other Loan Documents by the Borrower;

(ii) a certificate, signed by an authorized officer of the Borrower, stating (A) that the representations and warranties contained in Article 4 hereof are then accurate and complete in all material respects (except with respect to any representation or warranty which is already qualified by a materiality standard in which case such representation or warranty shall be accurate and complete in all respects) as though made on and as of such date and (B) that no event that would otherwise constitute an Event of Default or Incipient Default is continuing on such date; and

(iii) such other instruments or documents as the Lender may reasonably request relating to the existence and good standing of the Borrower or to the corporate authorization by the Borrower for execution, delivery and performance of this Agreement or any of the other Loan Documents;

(c) No Existing Default. No Event of Default or event which, upon the lapse of time or the giving of notice or both, would constitute an Event of Default (an "Incipient Default") shall exist on the First Disbursement Date or after giving effect to the transactions contemplated to take place hereunder on such date;

(d) Representations and Warranties Correct. The representations and warranties set forth in Article 4 hereof shall be true and correct in all material respects (except with respect to any representation or warranty which is already qualified by a materiality standard in which case such representation or warranty shall be true and correct in all respects) on and as of the First Disbursement Date, and after giving effect to the transactions contemplated to occur on such date;

(e) Security and License Agreement. The Security and License Agreement in the form attached hereto as Exhibit 3.1(e) (the "Security and License Agreement") shall have been executed by Borrower and delivered to Lender; and

(f) Other Documents. The Lender shall have received any other document, instrument, undertaking or certificate stated in any of the Loan Documents required to be delivered on or prior to the First Disbursement Date.

### 3.2 Conditions to Second Disbursements.

The obligation of the Lender to make the second disbursement of the Loan shall be subject to the prior or contemporaneous satisfaction of each of the following conditions:

(a) First Disbursement. The first disbursement of the Loan shall have occurred as set forth in Section 3.1 above;

(b) Reports, Certificates and Other Information. The Lender shall have received the following, dated and in full force and effect as of the Second Disbursement Date:

(i) a certificate, signed by an authorized officer of the Borrower, stating (A) that the representations and warranties contained in Article 4 hereof are then accurate and complete in all material respects (except with respect to any representation or warranty which is already qualified by a materiality standard in which case such representation or warranty shall be accurate and complete in all respects) as though made on and as of such date, and (B) that there has then occurred no Event of Default or Incipient Default which is continuing; and

(ii) such other instruments or documents as the Lender may reasonably request relating to the existence and good standing of the Borrower or to the corporate authorization by the Borrower for execution, delivery and performance of this Agreement or any of the other Loan Documents;

(c) No Existing Default. No Event of Default or Incipient Default shall exist on the Second Disbursement Date or after giving effect to the transactions contemplated to take place hereunder on such date;

(d) Representations and Warranties Correct. The representations and warranties set forth in Article 4 hereof shall be true and correct in all material respects (except with respect to any representation or warranty which is already qualified by a materiality standard in which case such representation or warranty shall be true and correct in all respects) on and as of the Second Disbursement Date, and after giving effect to the transactions contemplated to occur on such date;

(e) Execution of Development Agreement and Services Agreement. The parties shall have executed the (a) Development Agreement and (b) Services Agreement;

(f) Latitude 2004. The Latitude 2004 network infrastructures, as defined in the product development document entitled "Project Assignment: Latitude 2004," which shall include the QNX server environment provided by the Lender shall have been made operational and accepted by the Borrower; provided, however, that this condition shall be deemed waived by the Lender if the Lender has not provided the QNX software to the Borrower by December 31, 2003;

(g) GlobalCardio Software Application. The *GlobalCardio* software application licensed from CardioComm Solutions Inc. ("CardioComm") and sublicensed to the Borrower must be operational and running by at least one (1) outside customer on the Borrower's hosted infrastructure; provided, however, that this condition shall be deemed waived by the Lender if the software fails to operate in accordance with CardioComm's specifications and such failure is the direct cause of the Borrower's inability to have the software operational and running;

(h) Business Metrics. The ongoing business of Borrower must meet or exceed the following metric gates:

- (i) Borrower must receive at least 3,000 new patient referrals in a month;
- (ii) Borrower must have at least 900 physicians enrolled on its service; and
- (iii) Average reimbursement from third party health and medical payors for the service must be at least \$120 per day; and

(i) 2003 Audited Financial Statements. Borrower shall have delivered to the Lender (i) a copy of the annual audit report for the year ending December 31, 2003 for the Borrower and its subsidiaries on a consolidated basis, (ii) a statement of stockholders' equity for such fiscal year, (iii) a statement of cash flows for such fiscal year, (iv) an income statement for such fiscal year, and (v) a balance sheet as of the end of such fiscal year, together with like internal unaudited consolidating financial statements for Borrower and its subsidiaries.

(j) Other Documents. The Lender shall have received any other document, instrument, undertaking or certificate stated in any of the Loan Documents required to be delivered on the Second Disbursement Date.

### 3.3 Conditions for the Benefit of the Lender.

The conditions set forth in this Article 3 are for the exclusive benefit of the Lender and may be waived, for purposes of this Agreement, only by a written waiver declaration signed by the Lender.

### 3.4 Access to Verify Satisfaction of Conditions.

The Lender shall have the right, directly or through an independent certified public accounting firm or other advisor to the Lender subject to confidentiality restrictions, to conduct a reasonable and necessary inspection of portions of the books, records and systems of the Borrower necessary to audit all reasonably relevant information in order to determine whether the Borrower has satisfied the conditions listed in Sections 3.2(f), 3.2(g) and 3.2(h). Any such audit shall be conducted at the sole expense of the Lender during normal business hours in a manner that does not interfere with the normal business operations of the Borrower and the Lender shall give the Borrower at least five (5) Banking Days' written notice of its intention to conduct such audit.

## ARTICLE 4

### Representations and Warranties of the Borrower

In order to induce Lender to enter into or become party to this Agreement and to make the Loan, the Borrower makes the following representations and warranties to the Lender:

#### 4.1 Due Organization.

The Borrower is a corporation duly organized, validly existing and in good standing under the laws of the State of California. The Borrower is duly licensed or qualified to conduct business and in good standing in each jurisdiction wherein the character of the property owned or the nature of the business transacted by it makes such licensing or qualifications necessary, except as to jurisdictions where the failure to be so licensed or qualified would not reasonably be expected to have a Material Adverse Effect. Borrower does not have any direct or indirect ownership interest in any corporation, partnership, joint venture, association or other business entity.

#### 4.2 Capitalization.

(a) The corporate charter or articles of incorporation and all amendments thereto for the Borrower have been duly filed and are in proper order. All of the outstanding capital stock of the Borrower has been validly issued in compliance with all federal and state securities laws and is fully paid and nonassessable.

(b) As of the First Disbursement Date and the Second Disbursement Date the Borrower is not subject to any obligation (contingent or otherwise) to repurchase or otherwise acquire or retire any shares of its capital stock.

#### 4.3 Requisite Power.

The Borrower has all requisite corporate or other legal power and all Governmental Approvals necessary to own and operate its properties and to carry on its business as now conducted and as proposed to be conducted (except where failure to do so would not reasonably be expected to have a Material Adverse Effect). The Borrower has all requisite power to borrow the sums provided for in this Agreement and to execute, deliver, issue and perform this Agreement and the Note.

#### 4.4 Authorization.

All corporate action on the part of the Borrower and its directors and stockholders necessary for the authorization, execution, delivery and performance of this Agreement and the Note and the other Loan Documents has been duly taken and is in full force and effect.

4.5 Officer Authorization.

Each authorized officer of the Borrower executing this Agreement or any of the other Loan Documents is (as of the date of such execution) duly and properly in office and fully authorized to execute and deliver the same.

4.6 Binding Nature.

This Agreement, the Note and each of the other Loan Documents is, or upon the execution and delivery thereof will be, a legal, valid and binding obligation of the Borrower, and in full force and effect and enforceable in accordance with its respective terms, except for the effect of applicable laws regarding bankruptcy or insolvency or similar laws affecting creditors' rights generally and by general principles of equity relating to enforceability.

4.7 No Conflict.

Neither the execution nor delivery of this Agreement, the Note or any of the other Loan Documents nor fulfillment of nor compliance with the terms and provisions hereof or thereof will (a) conflict with or result in a breach of any Governmental Requirement applicable to the Borrower, or of any material agreement or instrument binding upon the Borrower or conflict with or result in a breach of any provision of the corporate charter or by-laws of the Borrower, except where such breach could not reasonably be expected to have a Material Adverse Effect or (b) result in the creation or imposition of any Lien (other than a Permitted Encumbrance) upon any property of the Borrower pursuant to any such agreement or instrument, except pursuant to or as contemplated by this Agreement or any other Loan Documents or where such creation or imposition could not reasonably be expected to have a Material Adverse Effect. No authorization, consent or approval or other action by, and no notice to or filing with, any Governmental Authority or any other Person is required to be obtained or made by the Borrower, for the due execution, delivery and performance by the Borrower of this Agreement, the Note or any of the other Loan Documents or for the validity or enforceability thereof, except for (i) such as have been obtained or made and are in full force and effect and (ii) filings and recordings in respect of the Liens created pursuant to the Loan Documents.

4.8 No Event of Default.

No Event of Default or Incipient Default has occurred and is continuing or would result from the execution of this Agreement.

4.9 Tax Returns and Tax Matters.

Borrower has filed all federal and state income tax returns which are required to be filed, and has paid all taxes as shown on said returns and on all assessments received by it to the extent that such taxes have become due and are required to be paid, except where the amount or validity of such payment is contested in good faith by appropriate proceedings and as to which payment in full is bonded or is adequately reserved against by Borrower or where the failure to do so could not reasonably be expected to have a Material Adverse Effect. There is no proposed, asserted or

assessed tax deficiency against the Borrower where any such deficiency or all such deficiencies, considered in the aggregate, could reasonably be expected to have a Material Adverse Effect.

#### 4.10 Compliance with Laws.

The Borrower is in compliance with all Governmental Requirements applicable to its properties, assets and business, except where the failure to so comply would not in the aggregate have a Material Adverse Effect. There are no proceedings pending or, to Borrower's knowledge, threatened, to terminate or modify any Government Approvals, which termination or modification would have a Material Adverse Effect.

#### 4.11 Full Disclosure.

(a) None of the representations or warranties made by the Borrower in the Loan Documents as of the date of such representations and warranties contains any untrue statement of a material fact or omits any material fact required to be stated therein or necessary to make the statements made therein, in light of the circumstances under which they are made, not materially misleading.

(b) Each of the financial statements (including the related notes and schedules) furnished by the Borrower to the Lender pursuant to Section 5.1 hereof (the "Borrower Reports") fairly presents the consolidated financial position of the Borrower as of its date, and each of the consolidated statements of income, retained earnings and cash flows (including the related notes and schedules) included in or incorporated by reference into the Borrower Reports or the financial statements furnished by the Borrower to the Lender pursuant to Section 5.1 hereof (including the related notes and schedules) fairly presents the results of operations, retained earnings or cash flows, as the case may be, of the Borrower for the periods set forth therein (subject, in the case of unaudited statements, to normal year-end audit adjustments which would not be material in amount or effect and subject to the absence of a statement of shareholder equity in the case of the unaudited statements), in each case in accordance with GAAP consistently applied during the periods involved, except as may be noted therein. The Borrower has no liabilities or obligations of any nature (whether accrued, absolute, contingent or otherwise) except (a) as set forth in the Borrower Reports, (b) liabilities or obligations reflected on, or reserved against in, a balance sheet of the Borrower or in the notes thereto, prepared in accordance with GAAP consistently applied and included in the Borrower Reports, (c) liabilities or obligations incurred in the ordinary course of business which would not reasonably be expected to have a Material Adverse Effect and (d) arising under executory contracts not currently in default.

#### 4.12 Title to Assets.

The Borrower and its subsidiaries have good and marketable title, free and clear of all Liens other than Permitted Encumbrances, to such properties and assets as are reasonably necessary for the conduct of their business, taken as a whole.

#### 4.13 Environmental Matters.

To the knowledge of the Borrower, except with respect to matters that would not reasonably be expected to have a Material Adverse Effect, (a) the Borrower has complied with and is currently in compliance in all respects with all applicable Environmental Laws; (b) none of the properties or operations of the Borrower is subject to any judicial or administrative proceeding alleging the violation of any Environmental Law; (c) none of the properties or operations of the Borrower is the subject of any federal or state investigation concerning any use or release of any Hazardous Substance; (d) the Borrower does not have any contingent liability in connection with any release of any Hazardous Substance into the environment by Borrower, and no release which could require remediation has occurred; and (e) no Lien in favor of any Governmental Authority exists for (i) any liability under Environmental Laws, or (ii) damages arising from or costs incurred by such Governmental Authority in response to a release of any Hazardous Substance into the environment has been filed or attached to any of the premises owned, leased or used by the Borrower or any of its subsidiaries. To the Borrower's knowledge and except with respect to matters that would not reasonably be expected to have a Material Adverse Effect, none of the Borrower's operations involve the generation, transportation, treatment, storage or disposal of Hazardous Substances (other than in the normal course of and incidental to the ordinary conduct of its business). Except with respect to matters that would not reasonably be expected to have a Material Adverse Effect, the Borrower has not disposed of any material amount of any Hazardous Substance in, on or about any premises owned, leased or used by the Borrower and, to the Borrower's knowledge, neither has any lessee, prior owner, or other Person. Except with respect to matters that would not reasonably be expected to have a Material Adverse Effect, no surface impoundments or, to the Borrower's knowledge, underground storage tanks are located in, on or about any of the premises owned, leased or used by the Borrower or any of its subsidiaries. Neither the Borrower, nor, to the knowledge of the Borrower, any predecessor of the Borrower, has filed any notice under any federal or state law indicating past or present treatment, storage or disposal of a hazardous waste or reporting a spill or release of a Hazardous Substance into the environment.

#### 4.14 Employee Benefits.

Neither the Borrower nor any other corporation, trade or business which, together with the Borrower, would be treated as a single employer under Sections 414(b), (c), (m) or (o) of the Code (controlled group member) is now or has at any time during the last five (5) years been a contributing sponsor (as defined in Section 4001(a)(13) of ERISA) with respect to any defined benefit pension plan covered by Title IV of ERISA by reason of Section 4021 of ERISA. Neither the Borrower nor any controlled group member is now or has at any time during the last five (5) years been obligated to contribute to any multiemployer plan within the meaning of Section 4001(a)(3) of ERISA. Other than continuation coverage required under Section 601 of ERISA the Borrower does not pay or provide for any post-retirement welfare benefits for its retired employees.

4.15 Litigation. Neither Borrower nor any of its assets are the subject of any pending, or to the Borrower's knowledge, threatened, action, suit, investigation or proceeding (a) with respect to any of the Loan Documents or (b) which would reasonably be expected to have a Material Adverse Effect.

4.16 Solvency. Borrower is solvent, as such term is defined in the United States Bankruptcy Code or any state law having jurisdiction over Borrower.

4.17 Financial Statements. The Company has provided to the Lender (a) an audited balance sheet of the Company and its consolidated subsidiaries at December 31, 2002 and an audited statement of income and statement of cash flows of the Company and its consolidated subsidiaries for the year then ended, and (b) an unaudited balance sheet of the Company and its consolidated subsidiaries at September 30, 2003 and an unaudited statement of income and statement of cash flows of the Company and its consolidated subsidiaries for the nine-month period then ended. Such financial statements, including the related notes and schedules, fairly present the results of operations, retained earnings or cash flows, as the case may be, of the Borrower for the periods set forth therein (subject, in the case of unaudited statements, to normal year-end adjustments which would not be material in amount or effect and subject to the absence of a statement of shareholder equity in the unaudited statements) and have been prepared in accordance with GAAP.

## ARTICLE 5

### Affirmative Covenants

The Borrower covenants and agrees that so long as any Obligation is outstanding it will comply with and, if applicable, cause any of its subsidiaries to comply with the following provisions:

#### 5.1 Financial Statements and Notices.

The Borrower shall furnish to the Lender the following financial statements, information and notices:

(a) Within forty-five (45) days after the close of each of the first three (3) quarters of Borrower's fiscal year, for the Borrower and its subsidiaries on a consolidated basis: (i) a statement of stockholders' equity for such quarter; (ii) a statement of cash flows for such quarter; (iii) an income statement for such quarter; and (iv) a balance sheet as of the end of such quarter. All such statements shall be prepared on a consolidated and consolidating basis for the Borrower and its subsidiaries, in reasonable detail, subject to year-end audit adjustments and without footnotes, shall include appropriate comparisons to the same period for the prior year, and shall be certified by the Chief Financial Officer of the Borrower to have been prepared in accordance with GAAP consistently applied, subject to year-end audit adjustments;

(b) Within ninety (90) days after the close of Borrower's fiscal year, (i) a copy of the annual audit report for such year for the Borrower, for the Borrower and its subsidiaries on a consolidated basis, (ii) a statement of stockholders' equity for such fiscal year; (iii) a statement of cash flows for such fiscal year, (iv) an income statement for such fiscal year, and (v) a balance sheet as of the end of such fiscal year, together with like internal unaudited consolidating financial statements for the Borrower and its subsidiaries; provided however, that if Borrower obtains a waiver under the First Amended and Restated Investor Rights Agreement among the Company, the



Investors and the Founders named therein, as amended and supplemented from time to time, to allow Borrower to deliver the audited financial statements required by Section 3.1(b) thereof to the Investors named therein within one hundred twenty (120) days after the close of Borrower's fiscal year (instead of 90 days), then the audited financial statements required to be delivered to Borrower under this Section 5.1(b) may be provided within 120 days after the close of Borrower's fiscal year (instead of 90 days). All statements required by this Section 5.1(b) shall include appropriate comparisons to the prior year. Such consolidated financial statements shall be audited by an independent certified public accounting firm and shall include a report of such accounting firm, which report shall be unqualified as to the Borrower's status as a going concern and as to the scope of the audit performed by such accounting firm and shall state that such financial statements fairly present in all material respects the financial position of the Borrower and its subsidiaries as at the dates indicated and the results of their operations and their cash flows for the periods indicated in conformity with GAAP, consistently applied;

(c) Promptly but in no event later than five (5) Banking Days after the Borrower obtains knowledge of the occurrence of an Event of Default or an Incipient Default, provide the Lender with a statement of an authorized officer of the Borrower setting forth details of such Event of Default or Incipient Default and the action which the Borrower proposes to take with respect thereto;

(d) Promptly but in no event later than five (5) Banking Days after the Borrower obtains knowledge thereof, written notice of any actual or threatened claims, litigation, suits, investigations, or proceedings against or affecting the Borrower or any of its subsidiaries that would reasonably be expected to have a Material Adverse Effect, including, without limitation: (i) any claim, litigation, suit, investigation, proceeding or dispute involving a monetary amount, whether or not covered by insurance, in excess of one million dollars (\$1,000,000), (ii) any denial, suspension, or revocation of any material Governmental Approval; (iii) any Environmental Claim from any person concerning any alleged violation of any Environmental Law by the Borrower or any of its subsidiaries or any of its or their predecessors which is reasonably likely to result in a liability to the Borrower or any of its subsidiaries, whether or not insured, in excess of one million dollars (\$1,000,000); or (v) the commencement of any investigation by any Government Authority, or the receipt by the Borrower or any of its subsidiaries of written request by any Government Authority for information, relating to the handling, storage or disposal of any Hazardous Substance, or the release thereof into the environment, by the Borrower or any of its subsidiaries or any of its or their predecessors, or any other Person, which investigation or request is other than routine; and

(e) Within a reasonable time after a request therefor, such other information as the Lender may reasonably request.

Each notice pursuant to Sections 5.1(c), (d) or (e) above shall be accompanied by a written statement by an authorized officer of the Borrower setting forth details of the occurrence referred to therein known to such officer and stating what action the Borrower proposes to take with respect thereto.

5.2 Access.

Upon the occurrence and during the continuance of an Event of Default, subject to the confidentiality limitations contained in Section 9.8 hereof, the Borrower shall permit the Lender, at such reasonable times and intervals as the Lender may designate upon reasonable prior written notice, at Lender's expense by and through the representatives and agents of the Lender, to inspect, audit and examine the Borrower's books and records, to make copies thereof, to discuss its affairs, finances and accounts with its officers, and to visit and inspect its properties.

5.3 Maintenance of Existence.

The Borrower shall preserve and maintain its corporate existence and all of its material licenses, privileges and franchises and other rights material in the course of its businesses; provided, that (a) the Borrower shall not be required to preserve any such license, privilege or franchise or other right no longer required in the conduct of its business, (b) the foregoing shall not prohibit dispositions under Section 6.3 hereof, and (c) the Borrower may discontinue any operation which the Board of Directors of the Borrower believes to be no longer in the interest of the Borrower or its business.

5.4 Facilities.

The Borrower and its subsidiaries shall use commercially reasonable efforts to keep the properties used in their respective businesses in good repair, working order and condition, and from time to time shall use commercially reasonable efforts to make necessary repairs or replacements thereto so that their property shall be maintained adequately for its intended use (ordinary wear and tear excepted), except where the failure to do so could not reasonably be expected to result in a Material Adverse Effect. The foregoing notwithstanding, the Borrower may dispose of obsolete, worn out and unneeded property.

5.5 Compliance with Laws.

The Borrower and its subsidiaries shall use commercially reasonable efforts to comply in all respects with all Governmental Requirements applicable to it, except where the failure to do so would not reasonably be expected to have a Material Adverse Effect.

5.6 Material Agreements.

The Borrower and its subsidiaries shall use commercially reasonable efforts to comply in all material respects with the terms of each material agreement to which any of them is a party, except where the failure to do so would not reasonably be expected to have a Material Adverse Effect.

5.7 Insurance.

The Borrower and its subsidiaries shall maintain in full force and effect insurance of such types and in such amounts as are customarily carried in their respective lines of business.

#### 5.8 Taxes and Other Liabilities.

The Borrower and its subsidiaries shall pay and discharge when due any and all indebtedness, obligations, liabilities and assessments, including, but not limited to, federal and state income and personal and real property taxes, except (i) as may be subject to good faith contest or as to which a bona fide dispute may arise; provided, however, that an adequate reserve therefor is made in accordance with GAAP, or (ii) where the failure to do so could not reasonably be expected to result in a Material Adverse Effect.

#### 5.9 Governmental Approvals.

The Borrower and its subsidiaries shall use commercially reasonable efforts to apply for, diligently pursue, and obtain or cause to be obtained, and shall thereafter maintain in full force and effect all material Governmental Approvals that shall now or hereafter be necessary under any Governmental Requirement applicable to it (a) for land use, public and employee health and safety, pollution or protection of the environment and (b) for the operation of the business of the Borrower and the subsidiaries, except, in each case, where the failure to obtain or maintain such Governmental Approval could not reasonably be expected to have a Material Adverse Effect.

5.10 Development Agreement. The Borrower and the Lender agree to devote time and resources toward planning a development project pursuant to which the Borrower will host and provide infrastructure to host a modified version of software provided by the Lender (the "Development Project"). The Borrower and the Lender agree to work toward negotiation with the Lender (or an affiliate of the Lender) of definitive documents related to such development project (the "Development Agreement"). In addition to the Development Agreement; the parties will work toward negotiation of a related services agreement pursuant to which the Borrower will provide ongoing services related to the Development Project (the "Services Agreement"). If the parties do not execute a Development Agreement or upon termination of planning the Development Project, all materials, information or rights provided, directly or indirectly by the Lender to the Borrower in connection with planning the Development Project shall be will be returned to the Lender and the Borrower shall have no further rights to use or keep any information or rights obtained in connection with planning the Development Project. The Borrower will make commercially reasonable efforts to keep the data related to planning the Development Project separate from all other data of the Borrower. Unless otherwise agreed in the Development Agreement, nothing in this Agreement shall transfer to (i) the Borrower any rights in or to the information, technology, data, software or intellectual property the Lender contributes to planning of the Development Project or (ii) the Lender any rights in or to the information, technology, data, software or intellectual property the Borrower contributes to planning of the Development Project except as set forth in the Security and License Agreement.

### ARTICLE 6

#### Negative Covenants

The Borrower covenants and agrees that so long as any Obligation is outstanding and the Lender has not failed to make a disbursement of the Loan which Lender was required to make, the

Borrower will comply with and, if applicable, cause any of its subsidiaries to comply with, the following provisions:

6.1 Distributions.

The Borrower shall not, directly or indirectly, make or declare any dividend (in cash, securities or any other form of property) on, or other payment or distribution on account of, or set aside assets for a sinking or other similar fund for purchase, or redeem, purchase, retire or otherwise acquire, any capital stock of the Borrower or securities convertible into or exercisable for capital stock of the Borrower, or make any other distribution in respect thereof, whether in cash or other property; provided, however, that (i) the Borrower may repurchase, purchase, acquire, cancel or retire its equity interests from officers, directors, employees and consultants (or their estates or beneficiaries under their estates) following termination of their services or employment with the Borrower, death, disability or retirement or to the extent required pursuant to employee benefit plans, employment agreements or other arrangements, and (ii) the Borrower may make payments of cash in lieu of issuance of fractional shares upon the exercise of warrants. The Borrower shall not permit any subsidiary of the Borrower to make or declare any dividend (in cash, securities or any other form of property) on, or other payment or distribution on account of, or set aside assets for a sinking or other similar fund for purchase, or redeem, purchase, retire or otherwise acquire, any capital stock of the Borrower or any subsidiary of the Borrower or securities convertible into or exercisable for capital stock of the Borrower or any subsidiary of the Borrower, except that a subsidiary of the Borrower may declare and pay dividends or otherwise distribute capital to the Borrower and accept capital contributions from the Borrower.

6.2 Conduct of Business; Use of Proceeds.

The Borrower shall not engage to any material extent in any business other than the Borrower's business as currently conducted or currently proposed to be conducted. The proceeds of the Loan shall be used for the operation and growth of its core business as currently conducted or currently proposed to be conducted. The Borrower will provide the Lender with a pro-forma analysis as to the use of the proceeds within thirty (30) days after the end of each calendar quarter.

6.3 Disposition of Material Assets.

Except for Permitted Dispositions, neither the Borrower nor any of its subsidiaries shall sell, lease, license, pledge, exchange or otherwise transfer any asset or assets of the Borrower if such disposition would have a Material Adverse Effect.

6.4 Investments.

Neither the Borrower nor any of its subsidiaries shall make or permit to remain outstanding any Investment, except (a) Investments by the Borrower in its subsidiaries; (b) Investments made in accordance with Borrower's standard investment policies approved by the Borrower's Board of Directors; (c) Investments received in the settlement of any debt owing to the Borrower or any of its subsidiaries, where such debt was incurred in the ordinary course of business; (d) other Investments not to exceed one million dollars (\$1,000,000) in the aggregate at any time outstanding; (e) other

Investments in connection with a bona fide acquisition, joint venture or other business relationship; provided that such Investment is in furtherance of the Borrower's business as currently conducted or currently proposed to be conducted; (f) Investments outstanding on the date of this Agreement; (g) (i) marketable direct obligations issued or unconditionally guaranteed by the United States of America or any agency or any State thereof maturing within one (1) year from the date of acquisition thereof, and (ii) commercial paper maturing no more than one (1) year from the date of creation thereof and currently having rating of at least A-2 or P-2 from either Standard & Poor's Corporation or Moody's Investors Service; (h) Investments consisting of (i) travel advances and employee relocation loans and other employee loans and advances in the ordinary course of business, and (ii) loans to employees, officers or directors relating to the purchase of equity securities of Borrower or its subsidiaries pursuant to employee stock purchase plan agreements approved by the Borrower's Board of Directors; (i) Investments (including debt obligations) received in connection with the bankruptcy or reorganization of customers or suppliers and in settlement of delinquent obligations of, and other disputes with, customers or suppliers arising in the ordinary course of Borrower's business; (j) joint ventures or strategic alliances in the ordinary course of Borrower's business consisting of the non-exclusive licensing of technology, the development of technology or the providing of technical support; (k) Investments consisting of intercompany indebtedness; (l) Investments accepted in connection with Permitted Transfers; and (m) swaps, forward, future or derivative transactions or options or similar agreements settled by reference to one or more rates, currencies, commodities, equity or debt instruments or securities, or economic, financial or pricing indexes or any similar transactions.

## ARTICLE 7

### Events of Default

#### 7.1 Events of Default.

Each of the following shall constitute an Event of Default under this Agreement:

(a) Principal Payments. The Borrower shall fail to pay when due (whether due when scheduled or as a result of a mandatory prepayment) any payment of principal or accrued and unpaid interest payable hereunder or under any of the other Loan Documents in respect of the Loan and such failure remains unresolved for ten (10) Banking Days after notice thereof to the Borrower from the Lender;

(b) Other Covenants and Loan Agreements. The Borrower shall default in the performance of any of its respective agreements set forth in any provision herein or in any of the other Loan Documents (and not constituting an Event of Default under any of the other clauses of this Section 7.1) and such default shall continue for thirty (30) days after notice thereof to the Borrower from the Lender; provided, however, that if the default cannot by its nature be cured within the thirty (30)-day period or cannot after diligent attempts by the Borrower be cured within such thirty (30)-day period, and such default is likely to be cured within a reasonable time, then the Borrower shall have an additional reasonable period (which shall not in any case exceed sixty (60) days) to attempt to cure such default, and within such reasonable time period the failure to have cured such default shall not be deemed an Event of Default;

(c) Representations and Warranties. Any representation or warranty contained in Section 4 hereof or certification pursuant to Section 3.1(b)(i), Section 3.2(b)(i) or 5.1 hereof made by the Borrower or any officer of the Borrower, shall be untrue in any material respect, in any case on any date as of which the facts set forth therein are stated to be true and correct;

(d) Judgments. Any final judgment, order or decree shall be rendered against the Borrower in an amount equal to or greater than one million dollars (\$1,000,000), and either (i) enforcement proceedings shall have been commenced by any Person upon such judgment or order or (ii) there shall be any period of thirty (30) consecutive days during which a stay of enforcement of such judgment or order, by reason of a pending appeal or otherwise, shall not be in effect, unless such judgment, order or decree shall, within such thirty (30)-day period, be vacated or discharged (other than by satisfaction thereof);

(e) Cross-Default. The Borrower or any subsidiary of the Borrower shall (i) fail to pay when due, by stated maturity, acceleration or otherwise, any Indebtedness for borrowed money of, or any guaranty of Indebtedness for borrowed money by, the Borrower or any subsidiary of the Borrower (not arising hereunder or under any of the other Loan Documents) outstanding in aggregate principal amount greater than one million dollars (\$1,000,000) ("Material Indebtedness"), and such failure continues after the applicable grace period, if any, specified in the document(s) relating thereto, or (ii) fail to perform or observe (subject to any applicable grace period) any agreement, covenant or condition with respect to any such Material Indebtedness if the effect of such failure is to accelerate the maturity of any such Indebtedness or to permit the holder or holders of any such Material Indebtedness, or any trustee or agent for such holders, to cause such Material Indebtedness to become due and payable prior to its expressed maturity in advance of nonpayment of the Material Indebtedness; provided, however, that the Event of Default under this Section 7.1(e) caused by the occurrence of a default under another agreement described in this Section shall be automatically cured for purposes of this Agreement upon the cure or waiver of the default under such other agreement, if (i) any such cure by the Borrower does not result in an Event of Default under any other provision of this Agreement, and (ii) in connection with such cure, the agreement with the third party is not modified in a manner which makes it materially less advantageous to the Borrower;

(f) Invalidity of Loan Documents. Any of the Loan Documents shall cease for any reason to be in full force and effect and the Lender shall be substantially deprived of any of its rights under the Loan Documents or the Borrower shall purport to disavow its obligations thereunder, shall declare that it does not have any further obligation thereunder or shall contest the validity or enforceability thereof;

(g) Insolvency. An Insolvency Proceeding (whether voluntary or involuntary) shall be commenced against the Borrower or any subsidiary of the Borrower; or the Borrower or any subsidiary of the Borrower shall file a petition initiating or shall otherwise institute any similar Insolvency Proceeding under any other applicable federal or state law, or shall consent thereto; or the Borrower or any subsidiary of the Borrower shall apply for, or by consent or acquiescence there shall be an appointment of, a receiver, liquidator, sequestrator, trustee or other officer with similar powers, or the Borrower or any subsidiary of the Borrower shall make an assignment for the benefit of creditors; or the Borrower or any subsidiary of the Borrower shall admit in writing its inability to

pay its debts generally as they become due; or, if an involuntary case shall be commenced seeking the liquidation or reorganization of the Borrower or any subsidiary of the Borrower or any subsidiary of the Borrower under Chapter 7 or Chapter 11, respectively, of the United States Bankruptcy Code, or any similar proceeding shall be commenced against the Borrower or any subsidiary of the Borrower under any other applicable federal or state law, and in the case of any such insolvency proceeding, (i) the petition commencing the involuntary case is not timely controverted within sixty (60) days; or (ii) the petition commencing the involuntary case is not dismissed within sixty (60) days of its filing; or (iii) an interim trustee is appointed to take possession of all or a portion of the property and/or to operate all or any part of the business of the debtor and such appointment is not dismissed within sixty (60) days; or (iv) an order for relief shall have been issued or entered therein and not stayed or dismissed within sixty (60) days; or a decree or order of a court having jurisdiction in the premises for the appointment of a receiver, liquidator, sequestrator, trustee or other officer having similar powers over the debtor, or of all or any part of the property of any of the foregoing, shall have been entered; or any other similar relief shall be granted against the Borrower or any subsidiary of the Borrower, under any applicable federal or state law, in each case, only to the extent not dismissed or stayed within sixty (60) days; or

(h) Dissolution; Cessation of Business. A dissolution of the Borrower or any cessation or termination by the Borrower of its business as currently conducted or currently proposed to be conducted.

(i) Failure to Amend Insurance Policies. A failure by Borrower to complete such actions as may be necessary to include a standard non-contributory mortgagee clause so that the insurance policies provide for payment in the event of a loss to Secured Party within thirty (30) days after the date of this Agreement. Within such thirty (30) day period, Borrower shall provide evidence, in the form of a certificate of insurance, showing Secured Party as an additional named insured under Borrower's insurance policies.

## 7.2 Acceleration.

If any Event of Default described in Section 7.1(g) or 7.1(h) hereof shall occur and be continuing, the Note and all other Obligations shall become immediately due and payable, all without notice of any kind, and the Lender shall have no further obligation to make any disbursement of the Loan which has not then been made. Notwithstanding any other provision in this Agreement, if any other Event of Default shall occur and be continuing, the Lender shall have no further obligation to make any disbursement of the Loan which has not then been made and may declare, at any time after the occurrence and during the continuance of an Event of Default, the Note and all other Obligations to be due and payable, and the Note and all other Obligations shall immediately become due and payable, all as so declared by the Lender and without presentment, demand, protest or other notice of any kind. Any such declaration made pursuant to this Section 7.2 may be rescinded by the Lender.

## ARTICLE 8

### Representations and Warranties of the Lender

The Lender makes the following representations and warranties to the Borrower:

#### 8.1 Due Organization.

The Lender is a corporation duly organized, validly existing and in good standing under the laws of the State of California.

#### 8.2 Requisite Power.

The Lender has all requisite corporate or other legal power and all governmental licenses, permits, authorizations, consents and approvals necessary to enter into and perform its obligations under this Agreement.

#### 8.3 Authorization.

All corporate action on the part of the Lender and its directors and stockholders necessary for the authorization, execution, delivery and performance of this Agreement and the other Loan Documents has been duly taken and is in full force and effect.

#### 8.4 Officer Authorization.

Each authorized officer of the Lender executing this Agreement or any of the other Loan Documents is (as of the date of such execution) duly and properly in office and fully authorized to execute and deliver the same.

#### 8.5 Binding Nature.

This Agreement is a legal, valid and binding obligation of the Lender, and in full force and effect and enforceable in accordance with its terms, except for the effect of applicable laws regarding bankruptcy or insolvency or similar laws affecting creditors' rights generally and by general principles of equity relating to enforceability.

#### 8.6 No Conflict.

Neither the execution nor delivery of this Agreement or any of the other Loan Documents nor fulfillment of nor compliance with the terms and provisions hereof or thereof will (a) conflict with or result in a breach of any Governmental Requirement, or of any agreement or instrument binding upon the Lender, or conflict with or result in a breach of any provision of the articles of incorporation or by-laws of the Lender. No authorization, consent or approval or other action by, and no notice to or filing with, any Governmental Authority or any other Person is required to be obtained or made by the Lender, for the due execution, delivery and performance by the Lender of this Agreement or any of the other Loan Documents or for the validity or enforceability thereof.



## ARTICLE 9

### Miscellaneous

#### 9.1 Successors and Assigns and Sale of Interests.

The terms and provisions of this Agreement shall be binding upon, and, subject to the provisions of this Section 9.1, the benefits thereof shall inure to, the parties hereto and their respective successors and assigns; provided, however, that the Borrower shall not assign this Agreement or any of its rights, duties or obligations hereunder without the prior written consent of the Lender, and the Lender shall not delegate its obligations or duties hereunder without the prior written consent of the Borrower, and provided, further, that no such consent shall be required for the Lender to delegate its rights, duties or obligations hereunder to an affiliate of the Lender or to The Guidant Foundation.

#### 9.2 No Implied Waiver.

No delay or omission to exercise any right, power or remedy accruing to the Lender upon any breach or default of the Borrower under this Agreement or under any of the other Loan Documents shall impair any such right, power or remedy of the Lender, nor shall it be construed to be a waiver of any such breach or default, or an acquiescence therein, or of or in any similar breach or default occurring thereafter, nor shall any waiver of any single breach or default be deemed a waiver of any other breach or default occurring theretofore or thereafter.

#### 9.3 Amendments and Waivers.

No amendment or waiver of any provision of this Agreement or any other Loan Document and no consent with respect to any departure by the Borrower therefrom, shall be effective unless the same shall be in writing and signed by the Lender, and then any such waiver shall be effective only in the specific instance and for the specific purpose for which given.

#### 9.4 Remedies Cumulative.

All rights and remedies, either under this Agreement, by law or otherwise afforded to the Lender shall be cumulative and not exclusive, and any single or partial exercise of any power or right hereunder or thereunder does not preclude other or further exercise thereof, or the exercise of any other power or right. In no event shall either party hereto be liable for consequential damages for breach hereof, even if foreseeable.

#### 9.5 Severability.

Any provision of this Agreement, the Note or any of the other Loan Documents which is prohibited or unenforceable in any jurisdiction, shall be, only as to such jurisdiction, ineffective to the extent of such prohibition or unenforceability, but all the remaining provisions of this Agreement, the Note and the other Loan Documents shall remain valid.

#### 9.6 Costs, Expenses and Attorneys' Fees.

Each party shall pay all of its fees and expenses associated with the negotiation, preparation, execution and closing of this Agreement and each disbursement of the Loan. The Borrower shall pay all costs and expenses, including, but not limited to, (i) reasonable attorneys' fees and expenses (including the allocated cost of in-house counsel), expended or incurred by the Lender in collecting any sum which becomes due under the Note or under this Agreement, any of the other Loan Documents; (ii) fees and expenses expended or incurred in the protection, perfection, preservation and enforcement of any and all rights of the Lender in connection with the Loan Documents including, without limitation, the fees and costs incurred in any out-of-court work-out or a bankruptcy or reorganization proceeding; and (iii) reasonable attorneys' fees and expenses (including the allocated cost of in-house counsel) incurred by Lender in connection with amendments or waivers requested by the Borrower under the Note, this Agreement or the other Loan Documents, in an aggregate amount not to exceed ten thousand dollars (\$10,000). This obligation on the part of the Borrower shall survive the expiration or termination of this Agreement and shall survive repayment of the Loan in full.

#### 9.7 General Indemnification.

The Borrower shall indemnify and hold the Lender and each of its directors, officers, employees, affiliates, attorneys and agents (collectively referred to herein as the "Lender Indemnitees") harmless from and against any and all liabilities, obligations, losses, damages, penalties, actions, judgments, suits, claims, costs, expenses and disbursements of any kind or nature whatsoever (including without limitation, any expenses (including attorneys' fees and the allocated cost of in-house counsel) incurred by any such Lender Indemnitee in connection with the Loans or in any manner relating to or arising out of this Agreement and any other Loan Documents, or any act, event or transaction related or attendant thereto; the making of the Loan hereunder, the management of the Loan (including any liability under federal, state or local environmental laws or regulations), and the use or intended use of the proceeds of the Loan (collectively, the "Indemnified Matters"); provided, however, that the Borrower shall have no obligation to any Lender Indemnitee under this Section 9.7 with respect to Indemnified Matters to the extent such Indemnified Matters were caused by or were alleged to have been caused by or resulted from the gross negligence or willful misconduct of a Lender Indemnitee. To the extent that the undertaking to indemnify, pay and hold harmless set forth in the preceding sentence may be unenforceable because it is violative of any law or public policy, the Borrower shall contribute to the payment and satisfaction of all Indemnified Matters incurred by the Lender Indemnitees the maximum portion which the Borrower is permitted to pay and satisfy under applicable law. This indemnification shall survive repayment by the Borrower of the Loan made under this Agreement and the termination of this Agreement.

#### 9.8 Confidentiality.

Each party hereto agrees that, except with the prior written permission of the other party, it shall at all times keep confidential and not divulge, furnish or make accessible to anyone any confidential information, knowledge or data concerning or relating to the business or financial affairs of the other parties to which such party has been or shall become privy by reason of this Agreement, discussions or negotiations relating to this Agreement. The provisions of this

Section 9.8 shall be in addition to, and not in substitution for, the provisions of any separate nondisclosure agreement that may be executed by the parties from time to time.

Notwithstanding anything herein to the contrary, any party to this Agreement (and any employee, representative, or other agent of any party to this Agreement) may disclose to any and all persons, without limitation of any kind, the tax treatment and tax structure of the transactions contemplated by this Agreement and all materials of any kind (including opinions or other tax analyses) that are provided to it relating to such tax treatment and tax structure; provided however, that no party shall be permitted to disclose such tax treatment or tax structure to the extent that such disclosure would constitute a violation of federal or state securities laws. For the purposes of the foregoing sentence, (i) the "tax treatment" of a transaction means the purported or claimed federal income tax treatment of the transaction, and (ii) the "tax structure" of a transaction means any fact that may be relevant to understanding the purported or claimed federal income tax treatment of the transaction. Thus, for the avoidance of doubt, the parties acknowledge and agree that the tax treatment and tax structure of any transaction does not include the name of any party to a transaction or any sensitive business information (including specific information about the Borrower's suppliers, growers, processors, distributors, customers or affiliates, the Borrower's assets, including any proprietary assets, or the results, including the financial results, of the Borrower's operations) unless such information may be related or relevant to the purported or claimed federal income tax treatment of the transaction.

9.9 Notices.

Any notice which the Borrower or the Lender may be required or may desire to give to the other party under any provision of this Agreement shall be in writing by electronic facsimile transmission and shall be deemed to have been given or made when transmitted to the Lender or the Borrower as follows:

To the Borrower:      CardioNet, Inc.  
                                 510 Market Street  
                                 San Diego, CA 92101  
                                 Attention: James Sweeney  
                                 Facsimile: (619) 243-7707

with a copy to:        Cooley Godward LLP  
                                 4401 Eastgate Mall  
                                 San Diego, CA 92121-1909  
                                 Attention: Frederick T. Muto  
                                 Facsimile: (858) 550-6420

To the Lender:           Guidant Investment Corporation  
                                  c/o Guidant Corporation  
                                  4100 Hamline Ave. N.  
                                  St. Paul, MN 55112  
                                  Attention: Richard S. Vogel  
                                  Facsimile: (651) 582-7868

with a copy to:           Guidant Investment Corporation  
                                  c/o Guidant Corporation  
                                  4100 Hamline Ave N.  
                                  St. Paul, MN 55112  
                                  Attention: Brad Harlow  
                                  Attention: Bryan Phillips  
                                  Facsimile: (651) 582-2926

Any party may change the address to which all notices, requests and other communications are to be sent to it by giving written notice of such address change to the other parties in conformity with this paragraph, but such change shall not be effective until notice of such change has been received by confirmed facsimile transmission by the other parties.

9.10 Entire Agreement.

This Agreement, together with the exhibits to this Agreement and all of the other Loan Documents, is intended by the Borrower and the Lender as a final expression of their agreement and a complete statement of the terms and conditions of their agreement. This Agreement and the other Loan Documents contain all of the agreements and understandings between the Borrower and the Lender concerning the Loan and the other transactions contemplated hereby.

9.11 Governing Law and Consent to Jurisdiction.

The validity, construction and effect of this Agreement, the Note and all of the other Loan Documents shall be governed by the laws of the State of California, without regard to its laws regarding choice of applicable law. All judicial proceedings brought against the Borrower with respect to this Agreement, the Note or any of the other Loan Documents may be brought in any state or federal court of competent jurisdiction in the State of California, and the Borrower accepts for itself and its assets and properties, generally and unconditionally, the nonexclusive jurisdiction of the aforesaid courts. The Borrower waives, to the fullest extent permitted by applicable law, any objection (including, without limitation, any objection to the laying of venue or based on the grounds of forum non conveniens) which it may now or hereafter have to the bringing of any such action or proceeding in any such jurisdiction. Nothing herein shall limit the right of Lender to bring proceedings against the Borrower in the court of any other jurisdiction. **TO THE FULLEST EXTENT PERMITTED BY APPLICABLE LAW, THE BORROWER WAIVES COMPLETELY ANY RIGHT WHICH IT MIGHT OTHERWISE HAVE TO TRIAL BY JURY.**

9.12 Counterparts.

This Agreement may be executed in any number of counterparts each of which shall be an original with the same effect as if the signatures thereto and hereto were upon the same instrument.

9.13 Headings.

Captions, headings and the table of contents in this Agreement are for convenience only, and are not to be deemed part of this Agreement.

[Signature Page Follows]

IN WITNESS WHEREOF, the parties hereto have executed this Agreement by their duly authorized officers as of the date and year first above written.

**CardioNet, Inc.**

By: James Sweeney  
Name: James Sweeney  
Title: Chairman and Chief Executive Officer

**Guidant Investment Corporation**

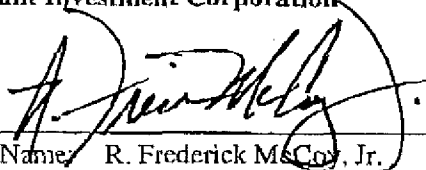
By: \_\_\_\_\_  
Name: R. Frederick McCoy, Jr.  
Title: Vice President

IN WITNESS WHEREOF, the parties hereto have executed this Agreement by their duly authorized officers as of the date and year first above written.

**CardioNet, Inc.**

By: \_\_\_\_\_  
Name: James Sweeney  
Title: Chairman and Chief Executive Officer

**Guidant Investment Corporation**

By:  \_\_\_\_\_  
Name: R. Frederick McCoy, Jr. RFR  
11/11/03  
Title: Vice President

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FROM-

TO-FAEGRE&BENSON

PAGE 03

**PATENT**  
**REEL: 027404 FRAME: 0653**

EXISTING ENCUMBRANCES



FORM OF PROMISSORY NOTE

\$10,000,000

San Diego, California  
\_\_\_\_\_, 200\_

On or before November 12, 2007, the undersigned, for value received, promises to pay to the order of Guidant Investment Corporation ("Payee"), at c/o Guidant Corporation, 4100 Hamline Avenue North, St. Paul, MN 55112, the principal sum of ten million dollars (\$10,000,000) plus unpaid interest added to such principal sum or, if less, the aggregate unpaid principal amount of all disbursements of the Loan made by the Payee to the undersigned pursuant to the Credit Agreement (as hereinafter defined) plus unpaid interest added to such principal amount as shown in the records of the Payee.

The unpaid principal amount hereof from time to time outstanding shall bear interest from the First Disbursement Date at a rate per annum initially equal to the Prime Rate plus one percent (1%), simple interest, as set forth in the Credit Agreement. Interest on the Loan shall be payable on the fifth (5<sup>th</sup>) Banking Day of the month of January each year during the term of the Loan.

Payments of both principal and interest shall be made in immediately available funds in lawful money of the United States of America.

This Note evidences indebtedness incurred under, and is subject to the terms and provisions of, that certain Credit Agreement dated as of November 12, 2003 (as from time to time amended, modified or supplemented) between the undersigned and the Payee (said Credit Agreement, as so amended, modified or supplemented being herein referred to as the "Credit Agreement"), to which Credit Agreement reference is hereby made for a statement of said terms and provisions, including those under which this Note may be paid prior to its due date or under which its due date may be accelerated. Capitalized terms used in this Note and not otherwise defined shall have the meaning set forth in the Credit Agreement.

This Note is secured by a Security and License Agreement dated the date hereof by the Company in favor of the secured parties named therein.

This Note is made under and governed by the internal laws of the State of California.

**CardioNet, Inc.**

By: \_\_\_\_\_

Name: James Sweeney

Title: Chairman and Chief Executive Officer

Address:

CardioNet, Inc.

510 Market Street

San Diego, CA 92101

Exhibit 3.1(e)

FORM OF SECURITY AND LICENSE AGREEMENT

M1:1043812.08

**PATENT**  
**REEL: 027404 FRAME: 0657**

**CARDIONET, INC.**  
**DISCLOSURE SCHEDULE TO**  
**CREDIT AGREEMENT BY AND BETWEEN**  
**GUIDANT INVESTMENT CORPORATION**  
**AND**  
**CARDIONET, INC.**

This disclosure schedule (this "*Disclosure Schedule*") is being furnished by CardioNet, Inc., a California corporation ("*Borrower*"), to Guidant Investment Corporation, a California corporation ("*Lender*"), in connection with the execution and delivery of that certain Credit Agreement entered into as of November 12, 2003 between Borrower and Lender (the "*Credit Agreement*").

This Disclosure Schedule and the information and disclosure contained in this Disclosure Schedule are intended only to qualify and limit the representations, warranties and covenants of the Borrower contained in the Credit Agreement and shall not be deemed to expand in any way the scope or effect of any of such representations, warranties or covenants.

The bold-faced heading set forth below is included for convenience only, and is not intended to limit the effect of the disclosure set forth below or to expand the scope of the information required to be disclosed in this Disclosure Schedule.

**SECTION 4.2, CAPITALIZATION:** On July 24, 2003, the Board of Directors of Borrower ratified and approved a Certificate of Amendment (the "*Certificate*") to Section 3.4(h)(i)(3)(B) of Article IV of Borrower's Articles of Incorporation to increase the number of shares specified therein to 3,700,000 and instructed that such Certificate be submitted for approval by the shareholders of Borrower. The Borrower is in the process of obtaining shareholder approval of the Certificate and will file the Certificate with the Secretary of State of the State of California immediately upon receiving such approval.

## SECURITY AND LICENSE AGREEMENT

THIS SECURITY AND LICENSE AGREEMENT (this "Agreement") is made as of this 12th day of November, 2003 by CardioNet, Inc., a California corporation ("Debtor"), in favor of Guidant Investment Corporation, a California corporation ("Secured Party").

In order to induce Secured Party to extend the Loan (as defined in the Credit Agreement by and between Debtor and Secured Party dated as of November 12, 2003 (the "Credit Agreement")), Debtor has agreed to grant a security interest in the Collateral (as defined below) for purposes of securing certain obligations of Debtor to Secured Party, and provide a non-exclusive license to certain of Debtor's intellectual property to Secured Party. Capitalized terms used but not defined herein shall have the meaning given to them in the Credit Agreement.

In connection with the execution of the Credit Agreement, Secured Party has required the execution and delivery of this Agreement by Debtor and the parties hereby agree as follows:

### NOW, THEREFORE, THE PARTIES HERETO AGREE AS FOLLOWS:

1. Definitions. In addition to any terms defined elsewhere in this Agreement, the following terms have the meanings indicated for purposes of this Agreement (such definitions being equally applicable to the singular and plural forms of the defined term):

"Copyrights" means all of the following now owned or hereafter acquired or created (as a work for hire for the benefit of Debtor) by Debtor or in which Debtor now holds or hereafter acquires or receives any right or interest, in whole or in part: (a) all copyrights, whether registered or unregistered, held pursuant to the laws of the United States, any State thereof or any other country; (b) registrations, applications, recordings and proceedings in the United States Copyright Office or in any similar office or agency of the United States, any State thereof or any other country; (c) any continuations, renewals or extensions thereof; (d) any registrations to be issued in any pending applications, and shall include any right or interest in and to work protectable by any of the foregoing which are presently or in the future owned, created or authorized (as a work for hire for the benefit of Debtor) or acquired by Debtor, in whole or in part; (e) prior versions of works covered by copyright and all works based upon, derived from or incorporating such works; (f) income, royalties, damages, claims and payments now and hereafter due and/or payable with respect to copyrights, including, without limitation, damages, claims and recoveries for past, present or future infringement; (g) rights to sue for past, present and future infringements of any copyright; and (h) any other rights corresponding to any of the foregoing rights throughout the world.

"Intellectual Property" means any intellectual property, in any medium, of any kind or nature whatsoever, now or hereafter owned or acquired or received by Debtor or in which Debtor now holds or hereafter acquires or receives any right or interest, and shall include, in any event, all Copyrights, Trademarks and Patents or any trade secret, customer list, internet domain name (including any right related to the registration thereof), proprietary or confidential information, mask work, source, object or other programming code, invention (whether or not patented or patentable), technical information, procedure, design, knowledge, know-how,

software, data base, data, skill, expertise, recipe, experience, process, model, drawing, material or record.

“Patents” means all of the following in which Debtor now holds or hereafter acquires any interest: (a) all letters patent of the United States or any other country, all registrations and recordings thereof and all applications for letters patent of the United States or any other country, including, without limitation, registrations, recordings and applications in the United States Patent and Trademark Office or in any similar office or agency of the United States, any State thereof or any other country; (b) all reissues, divisions, continuations, renewals, continuations-in-part or extensions thereof; (c) all petty patents, divisionals and patents of addition; (d) all patents to issue in any such applications; (e) income, royalties, damages, claims and payments now and hereafter due and/or payable with respect to patents, including, without limitation, damages, claims and recoveries for past, present or future infringement; and (f) rights to sue for past, present and future infringements of any patent.

“Proprietary Rights” means:

(a) All present and future license agreements with respect to software to which Debtor is a licensee or sublicensee (the “Licenses”), in each case, to the extent assignment or the granting of a non-exclusive third-party license, as applicable, is not prohibited thereunder.

(b) Any and all factual knowledge and information that gives to one the ability to produce or market something that one otherwise would not have known how to produce or market with the same accuracy or precision, including without limitation all formulae, algorithms, processes, procedures, writings, data, protocols, techniques, proposals, designs, ideas, concepts, strategic, research and development information and related documentation, business and other plans, research, inventions and invention disclosures (whether patentable or unpatentable or whether reduced to practice), and all records of the foregoing, test, engineering and technical data, proprietary information and methodologies, communications and associated peripheral devices and resources; computer software, programs and code, both object and source, in whatever form and media, databases, specifications and other information processing tangible and intangible items, whether now owned or hereafter acquired by Debtor (the “Know-How”).

(c) Any and all information that generally facilitates the production, manufacturing, marketing, or sale of products or services, increases revenues, or provides an advantage over the competition, is not generally known, whether now owned or hereafter acquired by Debtor (the “Trade Secrets”).

(d) Any and all design rights which may be available to Debtor now or hereafter existing, created, acquired or held.

(e) All amendments, extensions, renewals and extensions of any of the items described in the preceding paragraphs (a) through (d).

(f) Any and all claims for damages by way of past, present and future infringements of any of the items described in the preceding paragraphs (a) through (e), with the right, but not the obligation, to sue for and collect such damages for said use or infringement of

the intellectual property rights included in the items described in the preceding paragraphs (a) through (e).

“Trademarks” means any of the following in which Debtor now holds or hereafter acquires any interest: (a) any trademarks, tradenames, corporate names, company names, business names, trade styles, service marks, logos, other source or business identifiers, prints and labels on which any of the foregoing have appeared or appear, designs and general intangibles of like nature, now existing or hereafter adopted or acquired, all registrations and recordings thereof and any applications in connection therewith, including, without limitation, registrations, recordings and applications in the United States Patent and Trademark Office or in any similar office or agency of the United States, any State thereof or any other country (collectively, the “Marks”); (b) any reissues, extensions or renewals thereof; (c) the goodwill of the business symbolized by or associated with the Marks; (d) income, royalties, damages, claims and payments now and hereafter due and/or payable with respect to the Marks, including, without limitation, damages, claims and recoveries for past, present or future infringement; and (e) rights to sue for past, present and future infringements of the Marks.

2. Grant of Security Interest. As collateral security for the prompt and complete payment and performance of the Obligations, Debtor hereby irrevocably pledges, grants, and conveys a security interest to Secured Party, in and to Debtor’s entire right, title and interest in, to and under the following property (all of which shall collectively be called the “Collateral”):

All personal property of the Debtor, whether now owned or existing or hereafter acquired or arising, including without limitation: accounts, chattel paper, contract rights, inventory, equipment, instruments, investment property, documents, deposit accounts, letter-of-credit rights, software (including licensed software), firmware, hardware, infrastructure, design and manufacturing documentation, tooling, account lists, regulatory filings (including 510(k) filings) and general intangibles. The term “Collateral” shall specifically not include: (a) fixed assets listed on Schedule 1 attached hereto (the “Montgomery Collateral”), (b) any Intellectual Property and Proprietary Rights not developed for or provided to the Secured Party under Section 5.10 of the Credit Agreement or the Development Agreement or Services Agreement, or (c) any contract, instrument or chattel paper in which Debtor has any right, title or interest if and to the extent such contract, instrument or chattel paper includes a provision containing a restriction on assignment such that the creation of a security interest in the right, title or interest of Debtor therein would be prohibited and would, in and of itself, cause or result in a default thereunder enabling another person party to such contract, instrument or chattel paper to enforce any remedy with respect thereto to the extent such non-assignable contracts, instruments and chattel paper are listed on Schedule 2 hereto.

3. Licensed Rights. Debtor grants Secured Party a paid-up, non-exclusive worldwide license, with the right to sublicense, under and to the Intellectual Property and Proprietary Rights to the extent such Intellectual Property and Proprietary Rights are not included in the Collateral (the “Licensed Rights”) to make, have made, use, sell and import products and services to be developed or provided under the Development Agreement or

Services Agreement; provided, however, that Secured Party may not use or exercise such license unless and until there is a Change of Control or an Event of Default of the nature described in Sections 7(g) or 7(h) of the Credit Agreement and Secured Party may then only use or exercise such license to the extent necessary or useful for the operation of any products or services to be developed for or provided to Secured Party under Section 5.10 of the Credit Agreement or the Development Agreement or Services Agreement.

4. Covenants and Warranties. Debtor represents, warrants, covenants and agrees as follows:

(a) Name, Chief Executive Office, Location of Records, Change of Name, Etc. Debtor's exact legal name is as set forth in the first paragraph of this Agreement. Debtor's chief executive office and principal place of business is located at the address set forth on the signature page hereto and records relating to Debtor's accounts are kept at such address. Debtor has no other place of business, except as set forth in Schedule 4(a). Debtor will not change the location of its chief executive office, except to another jurisdiction within the United States and only upon 5 days prior written notice to Secured Party. Debtor shall not change its corporate name, state of incorporation or form of organization, except upon 5 days prior written notice to Secured Party.

(b) Location of Collateral. All Collateral is located at Debtor's principal place of business set forth below and in such other locations, if any, set forth in Schedule 4(b). None of the Collateral shall be removed from such locations without prior written notice to Secured Party, except in the ordinary course of business.

(c) Schedules; Accuracy of Information. Listed on Schedule 4(c)(i) are all Registered Copyrights and all material Unregistered Copyrights as of the date of this Agreement. Listed on Schedule 4(c)(ii) are all material Licenses related to intellectual property to which Debtor is a licensee or sublicensee as of the date of this Agreement. Listed on Schedule 4(c)(iii) are all Patents as of the date of this Agreement. Listed on Schedule 4(c)(iv) are all material Trademarks as of the date of this Agreement. To Debtor's knowledge, all the Schedules now or hereafter supplied to Secured Party by or on behalf of Debtor herein or pursuant hereto with respect to the Collateral is or will be, when so supplied, accurate and complete in all material respects, in light of the circumstances under which such information was supplied.

(d) Title. Debtor owns all legally enforceable right, title and interest to all Collateral free and clear of all liens, claims, encumbrances, except as set forth on Schedule 4(d) attached hereto and Permitted Encumbrances. Debtor has not received and Debtor does not have any knowledge of any notice, claim or allegation from any person or entity questioning the right of Debtor to use, possess, transfer, convey or otherwise dispose of any Collateral or questioning the right of Debtor to use any Collateral that would reasonably be expected to have a Material Adverse Effect.

(e) Employees. To the knowledge of Debtor, each employee, agent, consultant and contractor, who has contributed to or participated in the conception, creation or development of the Intellectual Property or Proprietary Rights on behalf of Debtor has executed written assignment in favor of Debtor as assignee, that has caused the conveyance to such Debtor



all right, title and interest in and to all Intellectual Property or Proprietary Rights arising from such individual's work. Debtor shall undertake all reasonable measures to cause its employees, agents and independent contractors to assign to Debtor all rights in Intellectual Property or Proprietary Rights in which Debtor may subsequently acquire any right or interest.

(f) Third-Party Infringement. To the knowledge of Debtor, there is no unauthorized use, disclosure, infringement, dilution, misappropriation, or other violation by any third party (including any employee or former employee of Debtor) of any Intellectual Property or Proprietary Rights of Debtor or of any right of any third party in Intellectual Property or Proprietary Rights licensed by or through Debtor that would reasonably be expected to have a Material Adverse Effect.

(g) Freedom to Operate. To the knowledge of Debtor, Debtor's use of the Collateral in its business as presently conducted, has not and could not reasonably be expected to not violate, interfere with or infringe upon the rights of any other individual or entity nor does such use by Debtor constitute a breach of any agreement, obligation, promise or commitment by which Debtor may be bound or constitute a violation of any laws, regulations, ordinances, codes or statutes in any jurisdiction applicable to Debtor, in each case, except where such violation, interference, infringement, or breach would not reasonably be expected to have a Material Adverse Effect.

(h) Know-How and Trade Secrets. Debtor has taken all actions that a reasonably prudent company in Debtor's business would take to maintain Know-How and Trade Secrets as confidential and proprietary, to protect against the loss, theft or unauthorized use of such Know-How and Trade Secrets. To the knowledge of Debtor, the Know-How and Trade Secrets are not in the public domain and have not been divulged or appropriated to the detriment of Debtor. Debtor's records include sufficient documentation of the Know-How and Trade Secrets, such as manufacturing and engineering plans, blueprints, designs, process instructions, formulae, quality assurance protocols and procedures and the like, to enable persons who are reasonably skilled and proficient in the relevant subject matter to continue the same in the ordinary course of business without unreasonable delay, expense, or reliance on the memory of any individual.

(i) Licenses; Transfers. Debtor has not and will not, without the express written consent of Secured Party, grant any licenses or other rights (other than licenses granted in the ordinary course of business). With respect to third party licenses included in the Collateral, (A) Debtor is not in any material breach or default with respect thereto, and no event has occurred which with notice or lapse of time would constitute a material breach or default or permit termination, modification or acceleration thereunder and (B) Debtor has not repudiated any material provision thereof. Debtor has no agreement to indemnify any individual or entity against any charge of infringement of any Intellectual Property or Proprietary Rights, other than indemnification provisions normal and usual for Debtor's industry arising in the ordinary course of business. During the term of this Agreement, Debtor will not, without the express written consent of Secured Party, sell, transfer, pledge, mortgage or create or suffer to exist a lien, security interest or other encumbrance in the Collateral, except for sales of Collateral or grants of licenses in the ordinary course of business, Permitted Dispositions and Permitted Encumbrances.

(j) Validity. To the knowledge of Debtor, there is no interference, opposition, cancellation, reexamination or other contest, proceeding, action, suit, hearing, investigation, charge, complaint, demand, notice, claim, dispute nor any claim of infringement, dilution, misappropriation or other violation by Debtor of material Intellectual Property or Proprietary Rights or other material proprietary rights of any other individual or entity pending or, to the knowledge of Debtor, overtly threatened or pending against Debtor. To the knowledge of Debtor, all statements and representations made by Debtor in any pending Proprietary Rights applications, filings or registrations were true in all material respects as of the time they were made. No Registered Copyright, Trademark, or Patent used in the business (other than in circumstances where Debtor has intentionally allowed Registered Copyright, Trademark, or Patent not material to the business to lapse, expire, become abandoned or be canceled) has lapsed, is being allowed to lapse, expired or been abandoned, invalidated, or canceled, in whole or in part, or is subject to any injunction, judgment, order, decree, ruling or charge or is subject to any pending or, to the knowledge of Debtor, threatened oppositions, cancellations, interferences or other proceedings before the United State Patent and Trademark Office, the Trademark Trials and Appeals Board, the United States Copyright Office or in any other registration authority in any country.

(k) No Conflict. Performance of this Agreement does not conflict with or result in a breach of any material agreement to which Debtor is bound, except to the extent that (i) certain intellectual property agreements prohibit the assignment of the rights thereunder to a third party without the licensor's or other party's consent and this Agreement constitutes an assignment, or (ii) any such conflict or breach would not reasonably be expected to have a Material Adverse Effect on Debtor's business or the Secured Party's rights in the Collateral.

(l) Material Adverse Changes. Debtor shall promptly advise Secured Party of any material adverse change in the composition of the Collateral and Licensed Rights. Upon any executive officer of Debtor obtaining actual knowledge thereof, Debtor will promptly notify Secured Party in writing of any event that materially adversely affects the value of any of the Collateral or Licensed Rights, or the rights and remedies of Secured Party in relation thereto, including the levy of any legal process against any of the Collateral or Licensed Rights.

(m) Duty to Protect and Defend. Debtor shall (i) protect, defend and maintain the validity and enforceability of all Collateral and Licensed Rights that are material to the business of Debtor, taken as a whole, unless Debtor determines that reasonable business practices suggest that such protection, defense or maintenance is not appropriate, (ii) use commercially reasonable efforts to detect infringements of such Intellectual Property and Proprietary Rights and promptly advise Secured Party in writing of any such material infringements detected and (iii) not allow any such Collateral or Licensed Rights to be abandoned, forfeited or dedicated to the public without the written consent of Secured Party, which shall not be unreasonably withheld, unless Debtor determines that reasonable business practices suggest that abandonment is appropriate.

(n) After Acquired Collateral. This Agreement creates, and in the case of after acquired Collateral or Licensed Rights, this Agreement will create at the time Debtor first has rights in such after acquired Collateral and Licensed Rights, in favor of Secured Party a valid and perfected first priority security interest (subject only to Permitted Encumbrances or any other

liens and encumbrances specifically acknowledged in writing by Secured Party, to have priority over Secured Party's security interest) in the Collateral or Licensed Rights securing the payment and performance of the Obligations.

(o) Other Impairments. Debtor shall not enter into any agreement that would materially impair or conflict with Debtor's obligations hereunder without Secured Party's prior written consent, which consent shall not be unreasonably withheld.

(p) Insurance. Debtor shall maintain insurance covering the Collateral against such risks, with such insurers, in such form, and in such amounts as is customarily maintained by businesses similar to Debtor. At the request of Secured Party and after the occurrence and during the continuance of an Event of Default, upon prior written notice from Secured Party, all insurance policies shall be furnished to and held by persons reasonably satisfactory to Secured Party. Debtor hereby conditionally assigns to Secured Party return premiums, dividends and other amounts which may be or become due upon cancellation of any such policies for any reason whatsoever, such assignment effective only during the occurrence and continuance of an Event of Default. Within thirty (30) days of the date of this Agreement, all insurance policies shall be written so as to be payable in the event of loss to Secured Party, by means of a standard non-contributory mortgagee clause as its interest may appear; provided however, that Secured Party agrees that it will not make a claim or accept a payment under any such insurance policy unless (i) an Event of Default has occurred and is continuing or (ii) Borrower fails to make a claim in connection with such loss within a reasonable period of time. Debtor shall endeavor to provide Secured Party at least 30 days prior notice of any cancellation or modification of any such policies. Effective only during the occurrence and continuance of an Event of Default, Secured Party is hereby irrevocably appointed as attorney in fact to collect return premiums, dividends and other amounts due on any insurance policy and the proceeds of such insurance, to settle any claims with the insurers in the event of loss or damage, to endorse settlement drafts and to cancel, assign or surrender any insurance policies.

5. Secured Party's Rights. Secured Party shall have the right, but not the obligation, to take, at Debtor's sole expense, any actions that Debtor is required under this Agreement to take for the protection of the Secured Party's rights hereunder but which Debtor fails to take, after thirty (30) days written notice to Debtor. Debtor shall reimburse and indemnify Secured Party for all reasonable costs and reasonable expenses incurred in the reasonable exercise of its rights under this Section 5. After the occurrence and during the continuance of an Event of Default, Debtor shall during normal business hours and from time to time allow Secured Party, at Secured Party's cost, by or through any of its officers, to examine or inspect the Collateral, make extracts from Debtor's books and records, copy billing records relating to accounts and, to arrange for verification of any Collateral consisting of accounts directly with the accounts of Debtor or by other methods.

6. Further Assurances; Attorney in Fact.

(a) Debtor will execute, acknowledge and deliver all such instruments, including appropriate financing and continuation statements and collateral agreements and filings with the United States Patent and Trademarks Office and the Register of Copyrights, and take all such action as may reasonably be deemed necessary or advisable, or as reasonably requested by

Secured Party, to perfect Secured Party's security interest in all Collateral and otherwise to carry out the intent and purposes of this Agreement, or for assuring and confirming to Secured Party the grant or perfection of a security interest in all Collateral. Debtor authorizes and requests that the Register of Copyrights, the Commissioner of Patents, and the Commissioner of Trademarks and any other applicable government officer in the U.S. or any foreign jurisdiction record this Agreement. Secured Party and Debtor agree that any filings to be made with the Register of Copyrights, the Commissioner of Patents or the Commissioner of Trademarks shall be in a form adequate to give notice of Secured Party's rights hereunder and shall be in a form mutually agreeable to both parties, provided that neither party shall unreasonably withhold its consent.

(b) Effective only during the occurrence and continuance of an Event of Default, Debtor hereby appoints Secured Party as Debtor's attorney-in-fact, with full authority in the place and stead of Debtor and in the name of Debtor, Secured Party or otherwise, from time to time in Secured Party's reasonable business judgment, upon Debtor's failure or inability to do so, to take any action and to execute any instrument which Secured Party may deem necessary or advisable in Secured Party's reasonable business judgment to accomplish the purposes of this Agreement, including:

(i) To modify, in Secured Party's reasonable business judgment, this Agreement without first obtaining Debtor's approval of or signature to such modification, to delete any reference to any right, title or interest in any Collateral or Licensed Rights in which Debtor no longer has or claims any right, title or interest; and

(ii) To file, in Secured Party's reasonable business judgment, one or more financing or continuation statements and amendments thereto, relative to any of the Collateral without the signature of Debtor where permitted by law.

7. Events of Default. The occurrence of an Event of Default of the type described in Section 7 of the Credit Agreement shall constitute an Event of Default under this Agreement.

8. Remedies. Upon the occurrence and during the continuation of an Event of Default, Secured Party shall have the right to exercise all the remedies of a secured party under the California Uniform Commercial Code, including without limitation the right to require Debtor to assemble the Collateral and any tangible property in which Secured Party has a security interest under this Agreement and to make it available to Secured Party at a place designated by Secured Party that is mutually convenient to Debtor and the Secured Party. Secured Party shall have a nonexclusive, royalty free license to use the Collateral to the extent reasonably necessary to permit Secured Party to exercise its rights and remedies upon the occurrence and during the continuation of an Event of Default.

9. Indemnity. Debtor agrees to defend, indemnify and hold harmless Secured Party and its officers, employees, and agents (each an "Agent") against: (a) all obligations, demands, claims, and liabilities claimed or asserted by any other party in connection with the transactions contemplated by this Agreement, and (b) all losses or reasonable expenses in any way suffered, incurred, or paid by Secured Party as a result of or in any way arising out of or consequential to transactions between Secured Party and Debtor under this Agreement (including without

limitation, reasonable attorneys fees), except for losses arising from or out of Secured Party's or any Agent's gross negligence, willful misconduct or breach of any Loan Document.

10. Release. At such time as Debtor shall completely satisfy all of the obligations secured hereunder (other than contingent indemnification obligations not yet due), Secured Party's security interest in the Collateral shall automatically terminate and Secured Party shall execute and deliver to Debtor all lien releases and other instruments as may be reasonably necessary or proper to evidence such termination, subject to any disposition of the Collateral which may have been made by Secured Party pursuant to this Agreement. For the purpose of this Agreement, the obligations secured hereunder shall be deemed to continue if Debtor enters into any bankruptcy or similar proceeding if any amount paid to Secured Party is ordered to be repaid as a preference or pursuant to a similar theory (provided that nothing herein shall limit the obligation of Secured Party under the immediately preceding sentence to execute lien releases and other instruments during any preference period unless a bankruptcy or similar proceeding has been entered into at the time such execution would otherwise be required).

11. No Waiver. No course of dealing between Debtor and Secured Party, nor any failure to exercise nor any delay in exercising, on the part of Secured Party, any right, power, or privilege under this Agreement or any other document, shall operate as a waiver. No single or partial exercise of any right, power, or privilege under this Agreement or any other document by Secured Party shall preclude any other or further exercise of such right, power, or privilege or the exercise of any other right, power, or privilege by Secured Party.

12. Rights Are Cumulative. All of Secured Party's rights and remedies with respect to the Collateral whether established by this Agreement or any other documents or agreements, or by law shall be cumulative and may be exercised concurrently or in any order.

13. Amendments. This Agreement may be amended only by a written instrument signed by the parties. This Agreement and the documents relating thereto comprise the entire agreement of the parties with respect to the matters addressed in this Agreement.

14. Severability. The provisions of this Agreement are severable. If any provision of this Agreement is held invalid or unenforceable in whole or in part in any jurisdiction, then such invalidity or unenforceability shall affect only such provision, or part thereof, in such jurisdiction, and shall not in any manner affect such provision or part thereof in any other jurisdiction, or any other provision of this Agreement in any jurisdiction.

15. California Law and Jurisdiction. This Agreement shall be governed by the laws of the State of California, without regard for choice of law provisions. Debtor and Secured Party consent to the nonexclusive jurisdiction of any state or federal court located in California in respect of all actions and proceedings relating directly or indirectly to this Agreement.

16. **WAIVER OF RIGHT TO JURY TRIAL. SECURED PARTY AND DEBTOR EACH HEREBY WAIVE THE RIGHT TO TRIAL BY JURY IN ANY ACTION OR PROCEEDING BASED UPON, ARISING OUT OF, OR IN ANY WAY RELATING TO: (I) THIS AGREEMENT; OR (II) ANY CONDUCT, ACTS OR OMISSIONS OF SECURED PARTY OR DEBTOR OR ANY OF THEIR DIRECTORS,**

**OFFICERS, EMPLOYEES, AGENTS, ATTORNEYS OR ANY OTHER PERSONS AFFILIATED WITH SECURED PARTY OR DEBTOR IN CONNECTION WITH THIS AGREEMENT; IN EACH OF THE FOREGOING CASES, WHETHER SOUNDING IN CONTRACT OR TORT OR OTHERWISE.**

17. Counterparts. This Agreement may be executed in two or more counterparts, each of which shall be deemed an original but all of which together shall constitute the same instrument.

WITNESS WHEREOF, the parties hereto have executed this Agreement on the day and year first above written.

CardioNet, Inc.

James Sweeney  
By: James Sweeney  
Its: Chairman and Chief Executive Officer

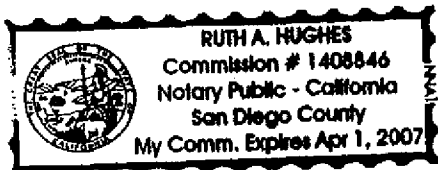
Guidant Investment Corporation

\_\_\_\_\_  
By: R. Frederick McCoy, Jr.  
Its: Vice President

STATE OF CALIFORNIA        )  
  )  
COUNTY OF SAN DIEGO     )

The foregoing instrument was acknowledged before me this 11th day of November, 2003, by James Sweeney, the Chairman & CEO of CardioNet, Inc., a California corporation, on behalf of the corporation.

Ruth A. Hughes  
Notary Public



WITNESS WHEREOF, the parties hereto have executed this Agreement on the day and year first above written.

CardioNet, Inc.

By: James Sweeney  
Its: President and Chief Executive Officer

Guidant Investment Corporation

By: R. Frederick McCoy Jr.  
Its: Vice President

REC  
11/11/03

STATE OF CALIFORNIA )  
 )  
COUNTY OF \_\_\_\_\_ )

The foregoing instrument was acknowledged before me this \_\_\_\_ day of November, 2003, by \_\_\_\_\_, the \_\_\_\_\_ of CardioNet, Inc., a California corporation, on behalf of the corporation.

\_\_\_\_\_  
Notary Public

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PAGE 02

PATENT  
REEL: 027404 FRAME: 0670



CARDIONET, INC.  
DISCLOSURE SCHEDULE TO  
SECURITY AND LICENSE AGREEMENT BY AND BETWEEN  
GUIDANT INVESTMENT CORPORATION  
AND  
CARDIONET, INC.

This disclosure schedule (this "*Disclosure Schedule*") is being furnished by CardioNet, Inc., a California corporation ("*Debtor*"), to Guidant Investment Corporation, a California corporation ("*Secured Party*"), in connection with the execution and delivery of that certain Security and License Agreement entered into as of November 12, 2003 between Debtor and Secured Party (the "*Security Agreement*").

No reference to or disclosure of any item or other matter in this Disclosure Schedule shall be construed as an admission or indication that such item or other matter is material or that such item or other matter is required to be referred to or disclosed in this Disclosure Schedule. No reference in this Disclosure Schedule to any agreement or document shall be construed as an admission or indication that such agreement or document is enforceable or currently in effect or that there are any obligations remaining to be performed or any rights that may be exercised under such agreement or document. No disclosure in this Disclosure Schedule relating to any possible breach or violation of any agreement, law or regulation shall be construed as an admission or indication that any such breach or violation exists or has actually occurred.

This Disclosure Schedule and the information and disclosures contained in this Disclosure Schedule are intended only to qualify and limit the representations, warranties and covenants of the Debtor contained in the Security Agreement and shall not be deemed to expand in any way the scope or effect of any of such representations, warranties or covenants.

The bold-faced headings contained in this Disclosure Schedule are included for convenience only, and are not intended to limit the effect of the disclosures contained in this Disclosure Schedule or to expand the scope of the information required to be disclosed in this Disclosure Schedule.

**SCHEDULE L, MONTGOMERY INTEREST:**

DESCRIPTION	AMOUNT
IT Equipment -- CDW	\$ 127,807
IT Equipment -- Dell	\$ 17,287
Telephone System -- Expert Technology	\$ 84,786
Computer Cabling and Racking -- DJS	\$ 116,047
Battery UPS System -- J.J. Cacchio	\$ 63,294
GPS Networking	\$ 1,643
<b>TOTAL</b>	<b>\$ 410,864</b>

**SCHEDULE 2, NON-ASSIGNABLE CONTRACTS, INSTRUMENTS AND CHATTEL PAPER:**

None.

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**SCHEDULE 4(A), OTHER BUSINESS LOCATIONS:**

1. 227 Washington Street, Suite 300, Conshohocken, PA 19428
2. 2350 Ravine Way, Suite 100, Glenview, IL 60025
3. 9500 Euclid Avenue, FF1-09, Cleveland, OH 44195
4. 2346 S. Lynhurst Drive, Suite 505, Indianapolis, IN 46241

**SCHEDULE 4(B), LOCATION OF COLLATERAL:**

1. 510 Market Street, San Diego, CA 92101
2. 227 Washington Street, Suite 300, Conshohocken, PA 19428
3. 2350 Ravine Way, Suite 100, Glenview, IL 60025
4. 9500 Euclid Avenue, FF1-09, Cleveland, OH 44195
5. 2346 S. Lynhurst Drive, Suite 505, Indianapolis, IN 46241
6. Verio, Inc., 9530 Towne Center Drive, Suite 150, San Diego, CA 92121
7. Varian, Inc., 13550 Stowe Drive, Poway, CA 92064

**SCHEDULE 4(C)(I), REGISTERED COPYRIGHTS AND MATERIAL UNREGISTERED COPYRIGHTS:**

**Registered copyrights:**

None

**Unregistered copyrights:**

1. Corporate and product marketing literature
2. Company web-site
3. Company software interfaces, screens and user manuals including PEMS, MSA and Monitor screen designs
4. Product literature including but not limited to instructions for use and patient manuals

**SCHEDULE 4(C)(II), MATERIAL LICENSE AGREEMENTS:**

License and Development Agreement dated May 11, 2001 between Debtor and Mortara Instrument, Inc.

Development and License Agreement dated May 10, 2002 between Debtor and QUALCOMM Incorporated.

Communications Voice and Data Services Provider Agreement dated May 12, 2003 between Debtor and QUALCOMM Incorporated.

**SCHEDULE 4(C)(III), PATENTS:**

**REPROGRAMMABLE REMOTE SENSOR MONITORING SYSTEM**

Patent No. 5,959,529 issued September 28, 1999  
Patent No. 6,225,901 issued May 1, 2001  
Patent Application No. 09/829,601 filed April 19, 2001  
Patent Application No. 10/293,463 filed November 12, 2002

**ADAPTIVE SELECTION OF A WARNING LIMIT IN PATIENT MONITORING**

Patent No. 6,569,095 issued May 27, 2003

**BIDIRECTIONAL COMMUNICATION BETWEEN A SENSOR UNIT AND A MONITOR UNIT INPATIENT MONITORING**

Patent Application No. 09/841,134 filed April 23, 2001

**CONTROL OF DATA TRANSMISSION BETWEEN A REMOTE MONITORING UNIT AND A CENTRAL UNIT**

Patent Application No. 09/841,152 filed April 23, 2001

**CORRELATION OF SENSOR SIGNALS WITH SUBJECTIVE INFORMATION IN PATIENT MONITORING**

Patent Application No. 09/841,155 filed April 23, 2001

**MEDICAL MONITORING SYSTEM HAVING MULTIPATH COMMUNICATIONS CAPABILITY**

Patent Application No. 09/841,133 filed April 23, 2001

**METHOD FOR CONTROLLING ACCESS TO MEDICAL MONITORING DEVICE SERVICE**

Patent Application No. 09/841,154 filed April 23, 2001

**METHOD AND APPARATUS FOR MONITORING AND COMMUNICATING WITH AN IMPLANTED MEDICAL DEVICE**

Patent Application 10/099,929 filed March 13, 2002



**SCHEDULE 4(C)(IV), MATERIAL TRADEMARKS:**

**CARDIONET (Class 10)**

U.S. Trademark Application No. 76/100,661  
Filed July 31, 2000  
Statement of Use issued August 15, 2003

**CARDIONET (Class 42)**

U.S. Trademark Application No. 76/100,660  
Filed July 31, 2000  
Statement of Use issued August 15, 2003

**PHYSIONET (Class 10)**

U.S. Trademark Application No. 76/299,900  
Filed August 15, 2001  
Supplemental Amendment filed August 5, 2002

**PHYSIONET (Class 42)**

U.S. Trademark Application No. 76/299,683  
Filed August 15, 2001  
U.S. Registered Trademark No. 2,678,939  
Granted January 21, 2003

**MOBILE OUTPATIENT CARDIAC TELEMETRY (Class 10)**

U.S. Trademark Application No. 76/377,804  
Filed March 4, 2002  
Abandoned April 2, 2003

**MOBILE OUTPATIENT CARDIAC TELEMETRY (Class 42)**

U.S. Trademark Application No. 76/377,801  
Filed March 4, 2002  
Supplemental Registration granted March 4, 2003  
Abandoned April 2, 2003

**MONITORING AT THE SPEED OF LIFE (Class 10)**

U.S. Trademark Application No. 76/132,883  
Filed September 21, 2000  
Suspended December 4, 2001 (pending status of similar trademark application)

**MONITORING AT THE SPEED OF LIFE (Class 42)**

U.S. Trademark Application No. 76/132/884

Filed September 21, 2000

Suspended December 4, 2001 (pending status of similar trademark application)

**YOUR WIRELESS STETHOSCOPE (Class 44)**

U.S. Trademark Application No. 78/314,716

Filed October 16, 2003

**SCHEDULE 4(D), LIEN:**

1. Pursuant to that certain Purchase Agreement dated September 14, 2001 by and between Varian, Inc. ("*Varian*") and Debtor (the "*Purchase Agreement*"), Varian has a security interest in all of the inventory it manufactures and supplies to Debtor under the Purchase Agreement. Varian filed a UCC Financing Statement disclosing this security interest in California on December 20, 2001.

PROMISSORY NOTE

\$10,000,000

San Diego, California  
November 12, 2003

On or before November 12, 2007, the undersigned, for value received, promises to pay to the order of Guidant Investment Corporation ("Payee"), at c/o Guidant Corporation, 4100 Hamline Avenue North, St. Paul, MN 55112, the principal sum of ten million dollars (\$10,000,000) plus unpaid interest added to such principal sum or, if less, the aggregate unpaid principal amount of all disbursements of the Loan made by the Payee to the undersigned pursuant to the Credit Agreement (as hereinafter defined) plus unpaid interest added to such principal amount as shown in the records of the Payee.

The unpaid principal amount hereof from time to time outstanding shall bear interest from the First Disbursement Date at a rate per annum initially equal to the Prime Rate plus one percent (1%), simple interest, as set forth in the Credit Agreement. Interest on the Loan shall be payable on the fifth (5<sup>th</sup>) Banking Day of the month of January each year during the term of the Loan.

Payments of both principal and interest shall be made in immediately available funds in lawful money of the United States of America.

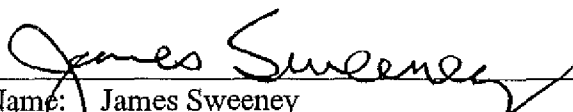
This Note evidences indebtedness incurred under, and is subject to the terms and provisions of, that certain Credit Agreement dated as of November 12, 2003 (as from time to time amended, modified or supplemented) between the undersigned and the Payee (said Credit Agreement, as so amended, modified or supplemented being herein referred to as the "Credit Agreement"), to which Credit Agreement reference is hereby made for a statement of said terms and provisions, including those under which this Note may be paid prior to its due date or under which its due date may be accelerated. Capitalized terms used in this Note and not otherwise defined shall have the meaning set forth in the Credit Agreement.

This Note is secured by a Security and License Agreement dated the date hereof by the Company in favor of the secured parties named therein.

MI:1047241.01

This Note is made under and governed by the internal laws of the State of California.

**CardioNet, Inc.**

By:   
Name: James Sweeney  
Title: Chairman and Chief Executive Officer

Address:  
CardioNet, Inc.  
510 Market Street  
San Diego, CA 92101

SUBJECT: Credit Agreement Waiver of Conditions  
DATE: December 22, 2003

There are two conditions in the Credit Agreement (the "Credit Agreement") dated November 12, 2003 between Guidant Investment Corporation ("GIC") and CardioNet, Inc. ("CardioNet") that are tied to the Latitude 04 product development milestones and therefore directly affect the timing of the second cash disbursement (Sections 3.2 (f) and 3.2 (g)). These product development milestones were devised before the product planning and definition process for Latitude 04 was completed. Now that this process is complete and due to changes in the product definition, the original milestones are no longer relevant and need to be revised.


The holiday has limited the availability of personnel required to revise and approve changes to the Credit Agreement. In order to avoid unnecessary activity by the Latitude development team between now and the end of the year, CardioNet and GIC agree to the following:

1. With respect to Section 3.2(f) of the Credit Agreement, CardioNet waives the requirement that the QNX software be delivered by CPI before December 31, 2003.
2. With respect to Section 3.2(g) of the Credit Agreement, GIC waives the requirement that the *GlobalCardio* software application be running by at least one (1) customer on CardioNet's hosted infrastructure.
3. CardioNet and GIC agree to negotiate in good faith any other revisions to Sections 3.2 (f) and 3.2 (g) that may be necessary to better represent the current product development planning priorities by January 30, 2004 and, if mutually agreed, amend the Credit Agreement as necessary to reflect such revisions.

Except as expressly set forth above, the Credit Agreement shall remain in full force and effect. If this letter correctly states the basic understanding between CardioNet and Guidant with respect to the transactions contemplated herein, please execute a copy of this letter and return it to the undersigned.

Very truly yours,

CARDIONET, INC.

By:   
Name: Mark Gergen  
Its: Executive Vice President

Approved and agreed to by:

GUIDANT INVESTMENT CORPORATION

By: \_\_\_\_\_  
Name: R. Frederick McCoy, Jr.  
Its: Vice President

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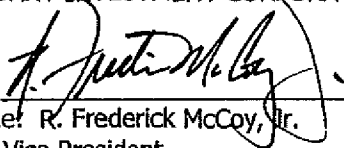
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CARDIONET, INC.

By: \_\_\_\_\_  
Name: Mark Gergen  
Its: Executive Vice President

Approved and agreed to by:

GUIDANT INVESTMENT CORPORATION

By:   
Name: R. Frederick McCoy, Jr. MR  
12-22-03  
Its: Vice President

**COPY**  
PATENT