

PATENT ASSIGNMENT COVER SHEET

Electronic Version v1.1
 Stylesheet Version v1.2

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SUBMISSION TYPE:	NEW ASSIGNMENT
NATURE OF CONVEYANCE:	COLLATERAL ACCEPTANCE AGREEMENT
CONVEYING PARTY DATA	
Name	Execution Date
SOLACE PHARMACEUTICALS UK LTD.	08/10/2010
RECEIVING PARTY DATA	
Name:	HERCULES TECHNOLOGY GROWTH CAPITAL, INC.
Street Address:	400 HAMILTON AVENUE
Internal Address:	SUITE 310
City:	PALO ALTO
State/Country:	CALIFORNIA
Postal Code:	94301
PROPERTY NUMBERS Total: 1	
Property Type	Number
Application Number:	14853709
CORRESPONDENCE DATA	
Fax Number:	
<i>Correspondence will be sent to the e-mail address first; if that is unsuccessful, it will be sent using a fax number, if provided; if that is unsuccessful, it will be sent via US Mail.</i>	
Email:	heather@pabstpatent.com
Correspondent Name:	PABST PATENT GROUP LLP
Address Line 1:	1545 PEACHTREE STREET, SUITE 320
Address Line 4:	ATLANTA, GEORGIA 30309
ATTORNEY DOCKET NUMBER:	CMCC 2284 CON
NAME OF SUBMITTER:	HEATHER BIFFLE
SIGNATURE:	/Heather Biffle/
DATE SIGNED:	05/03/2018
Total Attachments: 13	
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COLLATERAL ACCEPTANCE AGREEMENT

This Collateral Acceptance Agreement, dated as of August 10, 2010 (this "Agreement"), is made by and between Solace Pharmaceuticals Inc., a Delaware corporation ("Debtor"), and Hercules Technology Growth Capital, Inc., a Maryland corporation ("Secured Party").

RECITALS

A. Debtor and Secured Party entered into that certain Loan and Security Agreement dated as of October 8, 2008 (as amended by that certain Loan Modification Agreement dated as of October 12, 2009 and that certain Second Loan Modification Agreement dated as of December 18, 2009, and that certain Third Loan Modification Agreement dated as of April 30, 2010, the "Loan and Security Agreement"), pursuant to which Secured Party agreed to extend a growth capital loan to Debtor.

B. In connection with the Loan and Security Agreement, Debtor executed that certain Secured Term Promissory Note, dated October 8, 2008 in the principal amount of [REDACTED] (the "Tranche A Advance Note") and that certain Secured Term Promissory Note in the principal amount of [REDACTED] (the "Tranche B Advance Note"), each in favor of Secured Party.

C. On or about December 18, 2009, Debtor (i) executed that certain Amended and Restated Secured Promissory Note in the principal amount of [REDACTED] in favor of Secured Party (the "Amended Note") and agreed to apply [REDACTED] existing cash collateral as a partial payment to Secured Party on account of the unpaid principal balance of the Tranche A Advance Note and Tranche B Advance Note (the "Debtor Payment"). The Debtor Payment has been received by Secured Party.

D. As collateral security for Debtor's payment and performance obligations (the "Obligations") under the Loan and Security Agreement, including, without limitation, all amounts due and owing to Secured Party under the Amended Note, Debtor granted Secured Party a security interest in all of the Debtor's right, title and interest in (i) the collateral described in Section 3.1 of the Loan and Security Agreement, (ii) the collateral described in Section 1 of that certain Patent Grant of Security Interest dated as of October 21, 2009 by and between the Debtor and Secured Party, and (iii) the collateral described in Section 1 of that certain Trademark Grant of Security Interest dated October 21, 2009 by and between Debtor and Secured Party (collectively, the "Collateral").

E. Debtor has attempted to enter into one or more agreements to license certain of the Collateral, sell such Collateral, or otherwise obtain additional funding that would provide additional financial resources to support Debtor's operations. Debtor engaged in various dialogues and solicited potentially interested parties in connection with such a transaction for more than seven (7) months preceding the date of this Agreement. After having numerous parties consider such a transaction with the Debtor, the Debtor obtained two (2) different letters of intent and one (1) form sheet, each outlining the terms pursuant to which the third party would

collaborate with the Debtor on a going forward basis. Neither the letters of intent nor the term sheet resulted in a definitive agreement. No party has offered to purchase the Collateral. Neither the letters of intent nor the term sheet reflected an offer by such respective third parties to license the Collateral for more than an upfront payment of [REDACTED]

R. One or more Events of Default (as defined in the Loan and Security Agreement) have occurred and are continuing. On June 28, 2010 Secured Party issued to Debtor a Notice of Default as a result of such Events of Default.

G. Debtor and Secured Party are willing to have Secured Party or Secured Party's designee accept, pursuant to Section 9-620 of the Commercial Code set forth in Chapter 106 of the General Laws of Massachusetts ("UCC"), all of Debtor's right, title and interest in those items of Collateral designated on Schedule A hereto (the "Designated Collateral"), in satisfaction of a portion of the Obligations. In order to avoid any question about the price paid by Secured Party or its designee for the Designated Collateral, the Secured Party is willing to reduce the Debtor's Obligations to the Secured Party under the Loan and Security Agreement and the Amended Note by the sum of [REDACTED] (the "Designated Obligations"), upon the terms and subject to the conditions of this Agreement. Debtor and Secured Party agree that the Obligations otherwise shall continue in full force and effect after the date of this Agreement, except that the Obligations shall have been reduced by, but only to the extent of, the Designated Obligations.

H. Secured Party has recently requested searches of the records of the Secretaries of State for the State of Delaware and the Commonwealth of Massachusetts. The Secured Party or its designee will request additional searches to determine if there are any new filings of record against the Collateral that is being accepted by the Secured Party such that the UCC requires the Secured Party or its designee to send a notice of its acceptance to the party listed in the new filing. If such a filing is discovered, the Secured Party or its designee intends to take such steps as are appropriate with respect to such new party regarding the acceptance by the Secured Party or its designee of the Designated Collateral.

NOW, THEREFORE, in consideration of the foregoing and the terms and conditions set forth herein, Debtor and Secured Party hereby agree as follows:

ARTICLE I ACKNOWLEDGMENTS: ACCEPTANCE OF COLLATERAL

Section 1.1 Acknowledgments. Debtor and Secured Party acknowledge the existence or occurrence of the facts and circumstances set forth in the Recitals, and further acknowledge that on and as of the date of this Agreement and as of the Effective Date (as defined below) (i), the Loan Documents (as such term is defined in the Loan and Security Agreement) are valid and enforceable in accordance with their respective terms against Debtor, (ii) the Debtor is in default under the Loan and Security Agreement, and (iii) the Obligations that are outstanding and unpaid by Debtor to Secured Party are in excess of [REDACTED]

Section 1.2 Acceptance of Collateral. On the Effective Date, Debtor assigns, grants, transfers, conveys and relinquishes to, and consents to the acceptance by, Secured Party or its

designee, and Secured Party or its designee accepts from Debtor, in partial satisfaction of the Obligations, and in full satisfaction of the Designated Obligations, in each case pursuant to the UCC, as in effect on the date of this Agreement, all of the right, title and interest of Debtor in the Designated Collateral (the "Assignment and Acceptance"); provided that the Secured Party acknowledges and agrees that the foregoing is on an "AS-IS, WHERE-IS" basis with all faults and without any representation, warranty or guarantee of any kind being made or given by the Debtor or its servants or agents, express or implied, arising by law or otherwise.

Section 1.3 Partial Satisfaction of Obligations. On the Effective Date, the Assignment and Acceptance shall, irrevocably, unconditionally and automatically constitute full and final satisfaction of the Designated Obligations, but shall not constitute satisfaction of any kind, whether full or partial, of any of the Obligations that are not part of the Designated Obligations; provided that the Obligations which shall remain shall be comprised of [REDACTED] in unpaid principal, plus all accrued and unpaid interest, fees and expenses thereon as of the Effective Date, plus all interest, fees and expenses that continue to accrue on and after the Effective Date.

ARTICLE II COVENANTS: EFFECTIVE DATE

Section 2.1 Delivery of Proposals. Promptly after Secured Party or its designee is able to obtain reports of filings of creditors with the Secretary of State, or other proper government office, that reflect liens or security interests filed against Debtor as of 10 days prior to the date of this Agreement, Secured Party or its designee shall deliver a Proposal (as defined in Section 9-102(66) of the UCC) with respect to the Assignment and Acceptance (the "Proposal Notice") to all persons, if any, that are entitled to receive such proposals under the UCC (collectively, all such persons are referred to as the "Proposal Recipients"). For purposes of Sections 9-620 and 9-621 of the UCC, Debtor's consent to the Assignment and Acceptance shall be effective on the date of this Agreement. Secured Party or its designee shall send any Proposal Notice in a manner permitted pursuant to Section 9-102(74) of the UCC. Secured Party or its designee shall also send to Debtor a copy of any Proposal Notice that Secured Party or its designee sends pursuant to this Section 2.1.

Section 2.2 Secured Party's Receipt of Notice of Objection. In the event that Secured Party or its designee receives a timely authenticated (as defined in Section 9-102(7) of the UCC) notice of objection to the Assignment and Acceptance in accordance with Section 9-620 of the UCC ("Objection Notice") from a party that is entitled to send such an Objection Notice as provided in Section 9-620 of the UCC ("Valid Objector"), Secured Party or its designee shall attempt to contact the Valid Objector in an effort to resolve the basis for such Objection Notice.

Section 2.3 Notice to Debtor of Objection Notice or Redemption. Secured Party or its designee agrees to immediately notify Debtor of the occurrence or existence of any of the following events or circumstances: (i) Secured Party or its designee receives an Objection Notice regarding the Assignment and Acceptance, from a Valid Objector, (ii) Secured Party or its designee has actual knowledge that a Valid Objector objects or intends to object to the Proposal or to the Assignment and Acceptance, (iii) Secured Party or its designee has knowledge of facts or circumstances that would make it reasonably likely that a Valid Objector objects or

intends to object to a Proposal or to the Assignment and Acceptance, or (iv) any Valid Objector redeems or purports to redeem the Designated Collateral by tendering any sum of money or other property to Secured Party or its designee.

Section 2.4 Effective Date. The Assignment and Acceptance shall automatically become effective (the "Effective Date") on the earliest to occur of the following:

(i) Secured Party or its designee sends a notice to Debtor advising that the Secured Party's or its designee's (a) searches of appropriate offices for evidence of secured parties or lien holders eligible to be Valid Objectors pursuant to Section 9-620 of the UCC and (b) review of the agreements comprising the Designated Collateral, determined that there were no parties to whom a Proposal Notice should be sent so that no Valid Objector could exist and Secured Party or its designee has not received any Objection Notice prior to the date of this Agreement when Debtor consented to the Assignment and Acceptance;

(ii) Secured Party or its designee sends a notice to Debtor advising that the Secured Party or its designee had sent Proposal Notices to parties that may be eligible to be Valid Objectors and Secured Party or its designee has not received any Objection Notice from a Valid Objector within the time required by Section 9-620(d) of the UCC; or

(iii) Secured Party or its designee sends a notice to Debtor advising that the Secured Party or its designee had received a timely Objection Notice from one or more Valid Objectors but all of the Valid Objectors had withdrawn their respective Objection Notice.

If a Valid Objector has sent an Objection Notice and has not withdrawn the Objection Notice, and Secured Party or its designee has determined in its sole discretion that such a withdrawal of the Objection Notice is unlikely to occur within a reasonable time, Secured Party or its designee may notify Debtor of the particular Collateral in which the Valid Objector has an interest and with regard to which the Valid Objector has objected to Secured Party or its assignee accepting such collateral (the "Objected Collateral"). After the Secured Party or its assignee sends such notice to Debtor, the acceptance by the Secured Party or its designee of the Designated Collateral shall not be effective. In the event this Assignment and Acceptance does not become effective, Secured Party or its designee may elect to dispose of all or any part of the Collateral, including the Designated Collateral, in accordance with its rights and remedies under the UCC, the Loan Documents or pursuant to any other agreements and rights that Secured Party or its designee may have with respect to such Collateral.

ARTICLE III GENERAL PROVISIONS

Section 3.1 Notices. All notices, claims, demands and other communications hereunder shall be in writing and shall be deemed given upon (i) confirmed delivery by a standard overnight carrier, (ii) delivery by hand, (iii) delivery via facsimile transmission, provided the transmission is reported as complete and without error, or (iv) the expiration of three business days after the day when mailed by first class, postage prepaid United States mail, addressed to the respective parties at the following addresses (or such other address for a party as

shall be specified by like notice):

If to Debtor, to:

6 Denne Hill Business Center

Denne Hill Farm

Womenswold

Cantebury CT4 6HD

United Kingdom

If to Secured Party or its designee, to:

Heracles Technology Growth Capital
Attention: Chief Legal Officer
400 Hamilton Avenue, Suite 310
Palo Alto, CA 94301
Facsimile: (650) 473-9194

with copy to:

Pillsbury Winthrop Shaw Pittman LLP
Attention: Philip S. Warden
50 Fremont Street
San Francisco, CA 94105
Facsimile: (415) 983-1200

Section 3.2 Headings. The headings contained in this Agreement are for reference purposes only and shall not affect in any way the meaning or interpretation of this Agreement.

Section 3.3 Entire Agreement. This Agreement, including the Schedule attached to this Agreement and any certificate, instrument, document or agreement executed pursuant to this Agreement or in connection with this Agreement, constitutes the entire agreement, and supersedes all prior agreements and understandings, both written and oral, between the parties with respect to the subject matter of this Agreement.

Section 3.4 Governing Law. This agreement shall be governed by and construed in accordance with the laws of the Commonwealth of Massachusetts without regard to the rules of conflict of laws of the Commonwealth of Massachusetts or any other jurisdiction.

Section 3.5 Amendment. This Agreement may not be amended except by an instrument in writing signed by each of the parties to this Agreement.

Section 3.6 Counterparts. This Agreement may be executed in two or more counterparts, each of which shall be deemed to be an original but all of which shall constitute one and the same agreement.

Section 3.7 Severability. If any provision of this Agreement or the application of this Agreement to any person or circumstance is held invalid or unenforceable, the remainder of this Agreement, and the application of such provision to other persons or circumstances, shall not be affected thereby, and to such end, the provisions of this Agreement are agreed to be severable.

Section 3.8 No Third Party Beneficiaries. This Agreement is made and entered into for the sole protection and legal benefit of Secured Party and Debtor, and no other person shall be a direct or indirect legal beneficiary of, or have any direct or indirect cause of action or claim in connection herewith.

Section 3.9 No Assignments. Debtor may not assign or transfer any of its rights or obligations under this Agreement without the prior written consent of Secured Party or its designee. Any purported assignment or transfer thereof in violation of this Section 3.9 to any person shall be void and of no effect, and such person shall have no rights under this Agreement.

IN WITNESS WHEREOF, Debtor and Secured Party have caused this Collateral Acceptance Agreement to be executed on their behalf by their duly authorized officers, as of the date first above written.

SOLACE PHARMACEUTICALS INC.

By: 

Name:
Title:

Elio Forster
CEO

HERCULES TECHNOLOGY GROWTH
CAPITAL, INC.

By: 

Name: K. Nicholas Marshall
Title: Associate General Counsel

SCHEDULE A

DESIGNATED COLLATERAL

All of Debtor's right, title, estate and interest in, to and under each of the categories and/or items of Collateral set forth below:

(a) The General Intangibles (as defined below) including, without limitation, the following Intellectual Property (as defined in the Loan and Security Agreement):

- Exclusive License Agreement dated October 19, 2006 (MGH Agreement No. 2006A21124; MGH Invention No. 2357) by and between The General Hospital Corporation d/b/a Massachusetts General Hospital ("General") and Debtor
- Exclusive License Agreement dated November 1, 2007 (MGH Agreement No. A022288; MGH Invention No. 2966) by and between General and Debtor
- US Utility Application 10/987,289 "Methods for Treating Pain"
- US Provisional Application 61/243,430 "Heterocyclic GTP Cyclohydrolase Inhibitors"
- US Provisional Application 61/252,013 "Septapterin Reductase Inhibitors"
- US Utility Application 11/584,449 "Diagnostic Methods for Pain Sensitivity and Chronicity and for BH4-Related Disorder"
- US Utility Application 12/440,507 "Use of SNPs for the Diagnosis of a Pain Protective Haplotype in the GTP Cyclohydrolase 1 Gene"
- German Application D10 2007 058 340.2 "Method for Diagnosing a Genetic Predisposition for a Vascular Disease"
- US Patent 6,413,976 "Compositions and Methods for Decreasing Neuropathic Pain"
- US Provisional Application 61/225,099 "Improved Pharmaceutical Formulation"
- US Provisional Application 61/142,318 "Novel G11a Cell Modulators"
- US Utility Application 11/844,213 "Intrathecal Administration of Triptan Compositions to Treat Non-Migraine Pain"

(b) Cash (as defined below) in the amount of [REDACTED]

(c) To the extent not otherwise included above, all Proceeds (as defined below) of each of the foregoing and all accessions to, substitutions and replacements for, and routes, profits and products of each of the foregoing;

Notwithstanding the foregoing, the term "Designated Collateral" shall not include any of the following, provided, however, that, to the extent that the Secured Party was granted a security interest therein, Secured Party shall retain such security interest in the Debtor's right, title and interest in the following collateral and all of the rights and remedies of the Secured Party to realize on any and all of such collateral whether by foreclosure, collection of amounts owed or

otherwise:

- (1) Equipment which is the subject of a Lien permitted under clause (vii) of the definition of "Permitted Liens", but only to the extent the agreements pursuant to which Debtor leases such Equipment prohibit the granting of junior liens respecting such Equipment;
- (2) thirty-five percent (35%) of the capital stock of any foreign Subsidiary;
- (3) any license or similar agreement which by its terms would be violated or breached by the granting of the security interest and lien in such license or agreement; and
- (4) the following items:
 - a. Receivables (as defined below);
 - b. Equipment (as defined below)
 - c. Fixtures (as defined below);
 - d. Inventory (as defined below);
 - e. Investment Property (as defined below);
 - f. Deposit Accounts (as defined below);
 - g. Cash in excess of [REDACTED]; and
 - h. All Intellectual Property excluding only such property identified in clause (a) of the description of Designated Collateral on the first page of this Schedule A.

Definitions

For purposes hereof, the following terms shall have the meanings set forth below:

"Cash" means all cash and liquid funds.

"Deposit Accounts" means any "deposit accounts," as such term is defined in the UCC, and includes any checking account, savings account, or certificate of deposit.

"GAAP" or "Generally Accepted Accounting Principles" means the international financial reporting standards, as adopted by the International Accounting Standards Board, or if such standards are not applicable, generally accepted accounting principles in the United States of America, as in effect from time to time.

"Investment" means any beneficial ownership (including stock, partnership or limited liability company interests) of or in any Person, or any loan, advance or capital contribution to any Person or the acquisition of all, or substantially all, of the assets of another Person.

"Joinder Agreements" means for each Subsidiary, a completed and executed Joinder Agreement.

"Lien" means any mortgage, deed of trust, pledge, hypothecation, assignment for security, security interest, encumbrance, levy, lien or charge of any kind, whether voluntarily

incurred or arising by operation of law or otherwise, against any property, any conditional sale or other title retention agreement, and any lease in the nature of a security interest.

"Permitted Indebtedness" means: (i) Indebtedness of Debtor in favor of Secured Party; (ii) indebtedness existing on the Closing Date; (iii) Indebtedness of up to [REDACTED] in aggregate payment obligations at any time secured by a lien described in clause (vii) of the defined term "Permitted Liens," provided such Indebtedness does not exceed the lesser of the cost or fair market value of the Equipment financed with such Indebtedness; (iv) Indebtedness to trade creditors incurred in the ordinary course of business, including Indebtedness incurred in the ordinary course of business with corporate credit cards; (v) Indebtedness that also constitutes a Permitted Investment; (vi) Subordinated Indebtedness; (vii) reimbursement obligations in connection with letters of credit that are secured by cash or cash equivalents and issued on behalf of Debtor or a Subsidiary thereof in an amount not to exceed [REDACTED] at any time outstanding, (viii) other Indebtedness in an amount not to exceed [REDACTED] at any time outstanding, and (ix) extensions, refinancings and renewals of any items of Permitted Indebtedness, provided that the principal amount is not increased or the terms modified to impose materially more burdensome terms upon Debtor or its Subsidiary, as the case may be.

"Permitted Investment" means: (i) Investments existing on the Closing Date; (ii)(a) Marketable direct obligations issued or unconditionally guaranteed by the United States of America or any agency or any State thereof maturing within one year from the date of acquisition thereof, (b) commercial paper or corporate notes maturing no more than one year from the date of creation thereof and currently having a rating of at least A-2 or P-2 from either Standard & Poor's Corporation or Moody's Investors Service, (c) certificates of deposit issued by any bank with assets of at least [REDACTED] maturing no more than one year from the date of investment therein, and (d) money market accounts or money market funds; (iii) repurchases of stock from former employees, directors, or consultants of Debtor under the terms of applicable repurchase agreements at the original issuance price of such securities in an aggregate amount not to exceed [REDACTED] in any fiscal year, provided that no Event of Default has occurred, is continuing or would exist after giving effect to the repurchases; (iv) Investments accepted in connection with Permitted Transfers; (v) 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 Debtor's business; (vi) Investments consisting of notes receivable of, or prepaid royalties and other credit extensions, to customers and suppliers who are not affiliates, in the ordinary course of business, provided that this subparagraph (vi) shall not apply to Investments of Debtor in any Subsidiary; (vii) Investments consisting of loans not involving the net transfer on a substantially contemporaneous basis of cash proceeds to employees, officers or directors relating to the purchase of capital stock of Debtor pursuant to employee stock purchase plans or other similar agreements approved by Debtor's Board of Directors; (viii) Investments consisting of travel advances in the ordinary course of business; (ix) Investments in Subsidiaries organized in the United States after the Closing Date, provided that such Subsidiaries enter into a Joinder Agreement promptly after their formation by Debtor and execute such other documents as shall be reasonably requested by Secured Party; (x) Investments in subsidiaries organized outside of the United States approved in advance in writing by Secured Party; (xi) Investments in joint ventures, partnerships, collaborations, or strategic alliances received in the ordinary course of Debtor's business (and whether or not material to Debtor, it being understood and agreed that

any given joint venture, partnership, collaboration or strategic alliance may be material to Debtor but will still be considered entered into in the ordinary course) in exchange for the licensing of technology, know-how (including, without limitation, data) or Patents, the development of technology or the providing of technical support (which may include research and/or development), provided that any cash contributed by Debtor does not exceed ██████████ in the aggregate in any fiscal year; and (xii) additional investments that do not exceed ██████████ in the aggregate outstanding at any time.

"Permitted Licenses" means (i) non-exclusive licenses granted in the ordinary course of business and licenses granted to service providers in the ordinary course of business; (ii) exclusive, co-exclusive and non-exclusive licenses so long as limited by time (including time limits that may be imposed by the presence of reversionary rights), region or scope (including field of use limitations, limitations to specific compounds, and limitations to specific activities) in the ordinary course of business; (iii) options and first rights (including rights of first refusal and rights of first negotiation) for licenses described in clause (ii) of this definition; (iv) covenants not to sue of no greater scope than those of such clause (ii); and (v) grants of intellectual property licenses (including licenses (exclusive, non-exclusive and co-exclusive), options, first rights, covenants not to sue and assignments, in the ordinary course of business in connection with transactions described in clause (xi) of the defined term "Permitted Investments."

"Permitted Liens" means any and all of the following: (i) Liens in favor of Secured Party; (ii) Liens existing on the Closing Date; (iii) Liens for taxes, fees, assessments or other governmental charges or levies, either not delinquent or being contested in good faith by appropriate proceedings; provided, that Debtor maintains adequate reserves therefor in accordance with GAAP; (iv) Liens securing claims or demands of materialmen, artisans, mechanics, carriers, warehousemen, landlords and other like Persons arising in the ordinary course of Debtor's business and imposed without action of such parties; provided, that the payment thereof is not yet required; (v) Liens arising from judgments, decrees or attachments in circumstances which do not constitute an Event of Default hereunder; (vi) the following deposits, to the extent made in the ordinary course of business: deposits under worker's compensation, unemployment insurance, social security and other similar laws, or to secure the performance of bids, tenders or contracts (other than for the repayment of borrowed money) or to secure indemnity, performance or other similar bonds for the performance of bids, tenders or contracts (other than for the repayment of borrowed money) or to secure statutory obligations (other than liens arising under BRISA or environmental liens) or surety or appeal bonds, or to secure indemnity, performance or other similar bonds; (vii) Liens on Equipment or software or other intellectual property (and proceeds thereof) constituting purchase money liens and liens in connection with capital leases securing indebtedness permitted in clause (iii) of "Permitted Indebtedness"; (viii) Liens incurred in connection with Subordinated Indebtedness; (ix)(a) leasehold interests in leases or subleases granted in the ordinary course of business and not interfering in any material respect with the business of the licensor and (b) Permitted Licenses; (x) Liens in favor of customs and revenue authorities arising as a matter of law to secure payment of custom duties that are promptly paid on or before the date they become due; (xi) Liens on insurance proceeds securing the payment of financed insurance premiums that are promptly paid on or before the date they become due (provided that such Liens extend only to such insurance proceeds and not to any other property or assets); (xii) statutory and common law

rights of set-off and other similar rights as to deposits of cash and securities in favor of banks, other depository institutions and brokerage firms; (xiii) easements, zoning restrictions, rights-of-way and similar encumbrances on real property imposed by law or arising in the ordinary course of business so long as they do not materially impair the value or marketability of the related property; (xiv) Liens on cash or cash equivalents securing obligations permitted under clause (vii) of the definition of Permitted Indebtedness; (xv) Liens arising from the entering of licensing transactions referred to under clause (xi) of the definition of Permitted Indebtedness; and (xvi) Liens incurred in connection with the extension, renewal or refinancing of the indebtedness secured by Liens of the type described in clauses (i) through (xi) above; provided, that any extension, renewal or replacement Lien shall be limited to the property encumbered by the existing Lien and the principal amount of the indebtedness being extended, renewed or refinanced (as may have been reduced by any payment thereon) does not increase.

"Permitted Transfers" means (i) sales of Inventory in the normal course of business, (ii) non-exclusive licenses and similar arrangements for the use of Intellectual Property in the ordinary course of business and licenses that could not result in a legal transfer of title of the licensed property but that may be exclusive in respects other than territory and that may be exclusive as to territory only as to discreet geographical areas outside of the United States in the ordinary course of business, or (iii) dispositions of worn-out, obsolete or surplus Equipment at fair market value in the ordinary course of business, (iv) Transfers to domestic Subsidiaries that have executed Joinder Agreements, and (v) other Transfers of assets having a fair market value of not more than [REDACTED] in the aggregate in any fiscal year.

"Person" means any individual, sole proprietorship, partnership, joint venture, trust, unincorporated organization, association, corporation, limited liability company, institution, other entity or government.

"Receivables" means (i) all of Debtor's Accounts, Instruments, Documents, Chattel Paper, Supporting Obligations, letters of credit, proceeds of any letter of credit, and Letter of Credit Rights, and (ii) all customer lists, software, and business records related thereto.

"Subsidiary" means an entity, whether corporate, partnership, limited liability company, joint venture or otherwise, in which Debtor owns or controls 50% or more of the outstanding voting securities.

"UCC" means the Uniform Commercial Code as the same is, from time to time, in effect in the Commonwealth of Massachusetts; provided, that in the event that, by reason of mandatory provisions of law, any or all of the attachment, perfection or priority of, or remedies with respect to, Secured Party's Lien on any Collateral is governed by the Uniform Commercial Code as the same is, from time to time, in effect in a jurisdiction other than the Commonwealth of Massachusetts, then the term "UCC" shall mean the Uniform Commercial Code as in effect, from time to time, in such other jurisdiction solely for purposes of the provisions thereof relating to such attachment, perfection, priority or remedies and for purposes of definitions related to such provisions.

Capitalized terms used in this Schedule A but not defined here are used with the meanings set forth in the UCC.