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

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**FORM 8-K**

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**CURRENT REPORT**  
Pursuant to Section 13 or 15(d) of the Securities Exchange Act of 1934

Date of Report (Date of earliest event reported)  
July 22<sup>nd</sup>, 2019

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**MATEON THERAPEUTICS, INC.**  
(Exact name of registrant as specified in its charter)

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Delaware  
(State or other jurisdiction  
of incorporation)

000-21990  
(Commission  
File Number)

13-3679168  
(IRS Employer  
Identification No.)

29397 Agoura Road, Suite 107  
Agoura Hills, CA 91301  
(Address of principal executive offices and Zip Code)

Registrant's telephone number, including area code  
(650) 635-7000

Not applicable.  
(Former name or former address, if changed since last report.)

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

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

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

Title of class	Trading Symbols	Name of each exchange on which registered
N/A		

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

Emerging growth company

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

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

On July 22nd, 2019, Mateon Therapeutics, Inc., a Delaware corporation (the “**Company**”) entered into a note purchase agreement (the “**Note Purchase Agreement**”) with PointR Data, Inc. Pursuant to the Note Purchase Agreement, the Company issued a convertible promissory note (the “**Convertible Note**”) to PointR Data, Inc. in the principal amount of \$200,000. PointR Data is developing Artificial Intelligence/Deep Learning Platform for multiple business verticals including life sciences.

The Convertible Note bears interest at a rate of 8% per annum. Interest payments are due monthly on the 15th day of each calendar month (or the next business day thereafter), and are payable, at the option of the Holder, either in cash or in shares of the Company’s common stock, par value \$0.01 per share (the “**Common Stock**”), valued at the closing price of the Common Stock on the principal market on which the Common Stock is either traded or quoted at such time.

The Convertible Note is due and payable on demand by the holder (a) at any time after January 1, 2020 or (b) upon the occurrence of an Event of Default (as defined in the Convertible Note and the Note Purchase Agreement). The Company can prepay the Convertible Note upon notice to the holder without penalty.

All amounts outstanding under the Convertible Note will be automatically be converted into the Company’s securities issued in next equity financing raising gross proceeds of \$10 million or more (a “**Qualified Financing**”) at the price per share paid by investors in the Qualified Financing.

The Convertible Note and the Note Purchase Agreement contain customary Events of Default, including nonpayment, breach of warranty or covenant, and bankruptcy. In addition, the Convertible Note is being issued in connection with the preliminary evaluation of the Company’s acquisition of PointR Data, Inc. Discussion are in the early states and there are no definitive agreements or arrangements in place for any such acquisition at this time. It is an Event of Default under the Note Purchase Agreement, and PointR Data, Inc. shall have the right to demand repayment of the Convertible Promissory Note, if the Company ceases to negotiate in good faith for a potential acquisition of PointR Data, Inc.

The Company’s payment obligations under the Convertible Note are secured by certain MRI imaging data and related information (the “**Subject Data**”). Effective upon an Event of Default, in addition to any other remedies available to PointR Data, Inc. the Company will automatically grant PointR Data, Inc. a perpetual, irrevocable, world-wide, non-exclusive, royalty-free, fully paid-up, sublicensable, and transferable license to use the Subject Data. The license granted to Holder pursuant to this Section 7 shall survive the termination or repayment of this Note (but shall only be effective from and after the occurrence of an Event of Default).

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

On July 22, 2019, under the terms of the Note Purchase Agreement, the Company issued a \$200,000 principal amount Convertible Note to PointR Data, Inc.

Additional information on the terms of the Convertible Note, including the interest rate, payment terms, conversion rights and events of default, is contained in Item 1.01 of this Current Report on Form 8-K, and is incorporated by reference herein.

### Item 3.02 Unregistered Sales of Equity Securities.

On July 22, 2019, the Company issued a \$200,000 principal amount Convertible Note to PointR Data, Inc.

The Convertible Note was issued in reliance upon the exemption from registration requirements pursuant to Section 4(a)(2) under the Securities Act of 1933, as amended, the rules promulgated thereunder and pursuant to applicable state securities laws and regulations.

### References to Agreements

The descriptions of the Note Purchase Agreement and the Convertible Note in this report do not purport to be complete and are qualified in their entirety by reference to the forms of Note Purchase Agreement and Convertible Note, which are attached as Exhibits to this Current Report on Form 8-K, and each of which is incorporated herein by reference.

The agreements have been included to provide investors and stockholders with information regarding their respective terms. Those agreements are not intended to provide any other factual information about the Company. The representations, warranties and covenants contained in those agreements were made only for purposes of those agreements and as of specific dates, were solely for the benefit of the parties to those agreements, may be subject to limitations agreed upon by the contracting parties, and may be subject to standards of materiality applicable to the contracting parties that differ from those applicable to investors. Investors are not third-party beneficiaries under any of the agreements and should not rely on the representations, warranties or covenants or any descriptions thereof as characterizations of the actual state of facts or condition of the Company. Moreover, information concerning the subject matter of the representations and warranties may change after the date of the agreements, which subsequent information may or may not be fully reflected in the Company's public disclosures.

### Item 9.01 Financial Statements and Exhibits.

(d) Exhibits.

<b>Exhibit No.</b>	<b>Description</b>	<b>Incorporation by reference</b>
4.1	<a href="#">Convertible Promissory Note between Mateon Therapeutics, Inc and PointR Data Inc. dated July 22<sup>nd</sup>, 2019</a>	Filed herewith.
10.1	<a href="#">Note Purchase Agreement between Mateon Therapeutics, Inc and PointR Data Inc. dated July 22<sup>nd</sup>, 2019</a>	Filed herewith.

**SIGNATURE**

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

Mateon Therapeutics, Inc.

Date: July 23, 2019

/s/ Vuong Trieu

By: Vuong Trieu  
Chief Executive Officer



THIS NOTE AND THE SECURITIES ISSUABLE UPON CONVERSION HEREOF HAVE NOT BEEN REGISTERED UNDER THE SECURITIES ACT OF 1933, AS AMENDED (THE "SECURITIES ACT"), AND HAVE BEEN ACQUIRED FOR INVESTMENT AND NOT WITH A VIEW TO, OR IN CONNECTION WITH, THE SALE OR DISTRIBUTION THEREOF. NO SUCH TRANSFER MAY BE EFFECTED WITHOUT AN EFFECTIVE REGISTRATION STATEMENT RELATED THERETO OR AN OPINION OF COUNSEL IN A FORM SATISFACTORY TO THE COMPANY THAT SUCH REGISTRATION IS NOT REQUIRED UNDER THE SECURITIES ACT.

**MATEON THERAPEUTICS, INC.**

**CONVERTIBLE PROMISSORY NOTE**

**US\$200,000**

**July 22nd, 2019**

FOR VALUE RECEIVED, MATEON THERAPEUTICS, INC., a corporation duly incorporated under the laws of the State of Delaware (the "Company"), hereby promises to pay to POINTR DATA INC., or its permissible assigns (the "Holder") the principal sum of \$200,000.00, together with accrued and unpaid interest thereon, in the manner provided herein. This convertible promissory note (this "Note") is being issued by the Company to the original Holder of this Note (the "Original Holder") pursuant to that certain Note Purchase Agreement dated as of July 22nd, 2019 by and between the Company and the Original Holder (the "Purchase Agreement"). Each capitalized term used, but not defined, in this Note shall have the meaning ascribed to it in the Purchase Agreement.

**1. Payment.**

(a) Payment. Unless earlier converted as provided herein, all amounts outstanding and unpaid under this Note shall be due and payable on the earliest to occur of: (i) at the Company's election or on demand by the Holder at any time on or after January 1, 2020 or (ii) on demand by the Holder at any time following an Event of Default (the earliest to occur of clauses (i) or (ii) being referred to herein as the "Maturity Date"). The Company waives demand, presentment, diligence, protest, notice of protest and notice of dishonor with respect to this Note. All payments will be made in lawful money of the United States of America at the principal office of the Company, or at such other place as the Holder may from time to time designate in writing to the Company.

(b) Pre-Payment. This Note may be prepaid at the election of the Company and the prior written consent of the Holder at any time without penalty upon five (5) days prior written notice to the Holder.

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**2. Interest.** Interest on the unpaid principal amount shall accrue beginning on the issue date set forth above at a rate equal to eight percent (8.0%) per annum computed on the basis of the actual number of days elapsed and a year of 365 days from the date of this Note until the principal amount and all interest accrued thereon are paid or converted as provided in Section 3 hereof. Except upon the earlier conversion in accordance with Section 3, interest be due and payable on a monthly basis on the 15th day of each such month (or the next business day thereafter), which interest shall be payable, at the option of the Holder, either: (x) in cash or (y) in shares of Common Stock (with each share of Common Stock being valued based on the closing price of the Common Stock on the principal market on which the Common Stock is either traded or quoted at such time on the date immediately prior to the date on which the applicable interest payment is due and payable hereunder, or in the event the Common Stock is not then traded or quotes on any principal market, at the price per share equal to the then current fair market value of the Common Stock, as determined by an independent valuation expert selected jointly by the Company and the Holder, provided that the Company shall pay any such valuation expenses.

**3. Conversion; Repayment**

(a) The unpaid principal amount of this Note, together with any interest accrued but unpaid thereon, shall be converted into the securities of the Company to be issued and sold at the closing of the Qualified Financing. Upon the conversion of this Note pursuant to this Section 3, the Holder shall be entitled to receive such number and amount of the securities of the Company to be issued upon such conversion equal to the quotient obtained by dividing (i) the unpaid principal amount of this Note (together with any interest accrued but unpaid thereon) by (ii) the price paid for such securities in the Qualified Financing. The issuance of securities pursuant to the conversion of this Note will be on, and subject to, the same terms and conditions applicable to the securities issued in the Qualified Financing. For purposes of this Note, a “Qualified Financing” means an equity funding of the Company yield proceeds to the Company of not less than \$10,000,000.

(b) In the even that the Qualified Financing has not occurred on or prior to the Maturity Date, the Company shall repay this Note (together with any interest accrued but unpaid thereon) immediately following the Maturity Date.

**4. Mechanics of Conversion.**

(a) In the event that this Note is converted pursuant to Section 3, the Holder shall surrender this Note, duly endorsed, to the Company promptly following the closing of the Qualified Financing, and the Note shall thereupon be canceled. As soon as practicable following surrender of this Note (or a duly executed affidavit of loss with any indemnity reasonably requested by the Company) and at its expense, the Company will take such steps, and execute and deliver such agreements, documents and instruments, as may be reasonably necessary to issue and deliver to the Holder a certificate or certificates representing the securities of the Company to which the Holder is entitled upon such conversion.

(b) The Holder acknowledges that the conversion of this Note pursuant to Section 3 into the securities of the Company to be issued in the Qualified Financing may require the Holder’s execution of certain agreements relating to the purchase and sale of such securities, as well as registration rights, rights of first refusal and co-sale rights, rights of first offer and voting rights, if any, relating to such securities (collectively, the “Financing Arrangements”). The Holder agrees to execute all of the Financing Agreements in connection with the Qualified Financing as may be reasonably requested by the Company.

**5. Termination of Rights.** Upon payment in full of this Note, or conversion of this Note in accordance with Section 3, all rights with respect to this Note shall terminate, whether or not this Note has been surrendered for cancellation.

**6. Events of Default.** In case an Event of Default shall occur, then upon demand by the Holder (which demand shall not be required in the case of an Event of Default under Sections 6.1(b) or (c) of the Purchase Agreement), the entire outstanding principal amount, plus accrued and unpaid interest thereon, of this Note shall become immediately due and payable in the manner and with the effect provided in the Purchase Agreement and this Note.

**7. Events of Default – License: Commercial Transaction.**

(a) In connection with the issuance of this Note, the Company shall deposit with Holder certain MRI imaging data and related information in the Company's possession (the "Subject Data"). The Subject Data will include full resolution images, all information in the Company's possession that is used or useful in connection with the Subject Data, including all information related to causes or changes in the MRI imaging data. Effective upon an Event of Default, then Holder, without any further action on the part of the Company or Holder, the Company hereby grants Holder a perpetual, irrevocable, worldwide, non-exclusive, royalty-free, fully paid-up, sublicensable, transferable license to install, execute, perform, display, transmit, distribute (directly or indirectly), prepare derivative works of, and otherwise use the Subject Data. The license granted to Holder pursuant to this Section 7 shall survive the termination or repayment of this Note (but shall only be effective from and after the occurrence of an Event of Default). The license granted hereunder shall not be deemed to be an election of remedies and shall not effect Holder's other rights under this Note as a creditor or otherwise, to receive payment of the obligations owing hereunder.

(b) In the event that the Qualified Financing does not occur on or prior to the Maturity Date, the Company and the Holder shall work together in good faith to develop a commercial relationship pursuant to which the Company and Holder will develop an artificial intelligence platform, making use of the Subject Data, for use in the pharmaceutical / drug discovery industry.

**8. Transfer; Successors and Assigns.** The Holder may not sell, assign, pledge, dispose of or otherwise transfer this Note or any interest herein without the prior written consent of the Company, which shall not be unreasonably withheld; provided, however, a Holder that is a partnership, corporation, trust, joint venture, unincorporated organization or other entity may transfer this Note to any person that owns all (but not less than all) of the issued and outstanding voting securities of such entity without the prior written consent of the Company. Subject to the preceding sentence, this Note may be transferred only upon surrender of the original Note (or affidavit of loss with any indemnity reasonably requested by the Company) for registration of transfer, duly endorsed, or accompanied by a duly executed written instrument of transfer in form satisfactory to the Company. Thereupon, a new note for the same principal amount and interest will be issued to, and registered in the name of, the transferee. Interest and principal are payable only to the registered Holder. The terms and conditions of this Note shall inure to the benefit of and be binding upon the respective successors and assigns of the parties.

9. **Security Interest.** This note is secured by the Subject Data.

10. **Governing Law.** This Note shall be governed by and construed in accordance with the internal laws of the State of California without giving effect to any choice or conflict of law provision or rule (whether of the State of California or any other jurisdiction).

11. **Notices.** All notices required or permitted hereunder shall be given in accordance with Section 7.5 of the Purchase Agreement.

12. **Amendments and Waivers.** The terms and provisions of this Note may be amended or modified, and any provision hereof may be waived, only with the written consent of the Company and the Holder.

13. **Headings.** The headings in this Note are for purposes of reference only, and shall not limit or otherwise affect the meaning hereof.

14. **Cost of Collection.** In the event that Holder is required to take legal or other action to enforce its rights or obtain collection under this Note, the Company shall pay the Holder hereof reasonable costs of collection, or enforcement of the terms hereof, including attorneys' fees.

15. **Maximum Payments.** Nothing contained herein shall be deemed to establish or require the payment of a rate of interest or other charges in excess of the maximum permitted by applicable law. In the event that the rate of interest required to be paid or other charges hereunder exceed the maximum permitted by such law (such as, without limitation, the usury laws), any payments in excess of such maximum shall be credited against amounts owed by the Company to the Holder and thus refunded to the Company, or if no further amounts are owed by the Company to the Holder, shall be refunded to the Company. The Company hereby irrevocable consents to the reformation of this Note, as may be necessary by a court of law, so as to enable enforcement of this Note pursuant to summary judgment or summary proceeding. For avoidance of doubt, in the event that, for any reason, a finding by a court having jurisdiction over this Note is made that limits enforceability as a result of excessive interest or other origination or investment banking fees pursuant to the laws of any jurisdiction, then, such defense shall not be deemed to bar a summary proceeding or summary judgment on the Note but rather, the Note shall be fully and absolutely enforceable as to all principal and, the court having jurisdiction shall, after an inquest, have power to reform the Note so as to reduce interest amount to such amount as is immediately enforceable pursuant to summary judgment or summary proceeding and grant such award, plus any legal or enforcement fees of the Holder.

16. **Construction and Enforcement.** Each party acknowledges that its legal counsel participated in the preparation of this Note and, therefore, stipulates that the rule of construction that ambiguities are to be resolved against the drafting party shall not be applied in the interpretation of this Note to favor any party against the other. This Note reflects an investment made by the Holder or its assignor to the Company.

*[remainder of page intentionally left blank; signature page follows]*

IN WITNESS WHEREOF, the Company has caused this Note to be duly executed and delivered.

**MATEON THERAPEUTICS, INC.**

By: /s/ Vuong Trieu  
Name: Vuong Trieu  
Title: CEO

*[Signature Page to Convertible Promissory Note]*



## NOTE PURCHASE AGREEMENT

**THIS NOTE PURCHASE AGREEMENT** ("Agreement") is made as of July 22nd, 2019 (the "Execution Date") by and between MATEON THERAPEUTICS, INC., a Delaware corporation (the "Company"), and POINTR DATA INC. (the "Lender"). Capitalized terms used but not defined herein shall have the respective meanings ascribed to such terms in the Note (as defined below).

**WHEREAS**, the Lender wishes to provide financing to the Company through the issuance by the Company to the Lender of the Note (as defined below), and the Company desires to accept such financing and to issue the Note pursuant to the terms and conditions set forth below;

**NOW THEREFORE**, in consideration of the mutual promises and covenants set forth herein, and for other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the Company and the Lender agree as follows:

### 1. Definitions.

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

(b) "Change of Control" shall mean:

(i) The acquisition by any individual, entity or group (within the meaning of Rule 13d-3 promulgated under the Exchange Act or any successor provision) (any of the foregoing hereafter a "Person") of fifty percent (50%) or more of either (a) the then outstanding shares of the capital stock of the Company (the "Outstanding Capital Stock") or (b) the combined voting power of the then outstanding voting securities of the Company entitled to vote generally in the election of directors (the "Voting Securities"), provided, however, that such an acquisition by one of the following shall not constitute a change of control: (1) the Company or any of its subsidiaries, or any employee benefit plan (or related trust) sponsored or maintained by the Company or any of its subsidiaries or (2) any Person that is eligible, pursuant to Rule 13d-1(b) under the Exchange Act, to file a statement on Schedule 13G with respect to its beneficial ownership of Voting Securities, whether or not such Person shall have filed a statement on Schedule 13G, unless such Person shall have filed a statement on Schedule 13D with respect to beneficial ownership of fifty percent (50%) or more of the Voting Securities or (3) any corporation with respect to which, following such acquisition, more than sixty percent (60%) of both the then outstanding shares of common stock of such corporation and the combined voting power of the then outstanding voting securities of such corporation entitled to vote generally in the election of directors is then beneficially owned, directly or indirectly, by all or substantially all of the individuals and entities who were the beneficial owners, respectively, of the Outstanding Capital Stock or Voting Securities immediately prior to such acquisition in substantially the same proportions as their ownership, immediately prior to such acquisition, of the Outstanding Capital Stock or Voting Securities, as the case may be; or

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(ii) Individuals who, as of the date of issuance of the Note constitute the Board (the “Incumbent Board”) cease for any reason to constitute at least a majority of the Board, provided that any individual becoming a director subsequent to the Closing Date whose election or nomination for election by the Company’s shareholders was approved by a vote of at least a majority of the directors then comprising the Incumbent Board shall be considered as though such individual were a member of the Incumbent Board, but excluding, for this purpose, any such individual whose initial assumption of office is in connection with an actual or threatened election contest relating to the election of the Directors of the Company (as such terms are used in Rule 14a-11 of Regulation 14A, or any successor section, promulgated under the Exchange Act); or

(iii) Approval by the shareholders of the Company of a reorganization, merger or consolidation (a “Business Combination”), in each case, with respect to which all or substantially all holders of the Outstanding Capital Stock and Voting Securities immediately prior to such Business Combination do not, following such Business Combination, beneficially own, directly or indirectly, in substantially the same proportions, more than sixty percent (60%) of, respectively, the then outstanding shares of common stock and the combined voting power of the then outstanding voting securities entitled to vote generally in the election of directors, as the case may be, of the corporation resulting from the Business Combination; or

(iv) A complete liquidation or dissolution of the Company; or

(v) A sale or other disposition of all or substantially all of the assets of the Company other than to a corporation with respect to which, following such sale or disposition, more than sixty percent (60%) of the then outstanding shares of common stock and the combined voting power of the then outstanding voting securities entitled to vote generally in the election of directors are then owned beneficially, directly or indirectly, by all or substantially all of the individuals and entities who were the beneficial owners, respectively, of the Outstanding Capital Stock or Voting Securities immediately prior to such sale or disposition in substantially the same proportions as their ownership of the Outstanding Capital Stock and Voting Securities, as the case may be, immediately prior to such sale or disposition.

(c) “Commission” shall mean the Securities and Exchange Commission.

(d) “Common Stock” shall mean the shares of the common stock, par value \$0.006 per share, of the Company.

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(e) "Exchange Act" shall mean the Securities Exchange Act of 1934, as amended.

(f) RESERVED

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

(i) "Maturity Date" shall be as set forth in each Note (as defined below).

(j) "Note" shall mean the promissory note issued to the Lender pursuant to Section 2.1 below, in the aggregate principal amount of \$200,000, the form of which is attached hereto as Exhibit A.

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

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

(m) "Purchase Price" shall mean \$200,000.

(n) "Securities Act" shall mean the Securities Act of 1933, as amended.

(o) "SEC Reports" shall mean all reports, schedules, forms, statements and other documents required to be filed by the Company under the Securities Act and the Exchange Act, including pursuant to Section 13(a) or 15(d) thereof, for the two years preceding the date hereof (or such shorter period as the Company was required by law or regulation to file such material).

(q) "Subsidiary" means any subsidiary of the Company as set forth in the SEC Reports and shall, where applicable, also include any direct or indirect subsidiary of the Company formed or acquired after the date hereof.

(r) "Transaction Documents" means the Note and this Agreement.

## 2. Issuance of the Note.

2.1 General. In consideration of (and subject to) the payment of the Purchase Price by the Lender, the Company shall sell and issue the Note to the Lender on the Closing Date (as defined below). The Note shall be convertible at the option of the Lender as set forth in the Note.

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### 3. Closing Mechanics.

3.1 Closing. The closing (the “Closing”) of the purchase and sale of the Note shall take place on the date of this Agreement or at such later time as the Company and the Lender agree upon orally or in writing. At the Closing, the Lender shall deliver the Purchase Price to the Company by wire transfer of immediately available funds to an account designated in writing by the Company to the Lender prior to the Closing, and the Company shall deliver to the Lender the Note duly executed by the Company, in return for the Purchase Price provided to the Company. The date of the Closing shall be referred to herein as the “Closing Date”.

4. Representations and Warranties of the Company. In connection with the purchase and sale of the Note provided for herein, the Company hereby represents and warrants to the Lender that:

4.1 Organization, Good Standing and Qualification. The Company and each of the Subsidiaries is an entity duly incorporated or otherwise organized, validly existing and in good standing under the laws of the jurisdiction of its incorporation or organization, with the requisite power and authority to own and use its properties and assets and to carry on its business as currently conducted. Neither the Company nor any Subsidiary is in violation nor default of any of the provisions of its respective certificate or articles of incorporation, bylaws or other organizational or charter documents. Each of the Company and the Subsidiaries is duly qualified to conduct business and is in good standing as a foreign corporation or other entity in each jurisdiction in which the nature of the business conducted or property owned by it makes such qualification necessary, except where the failure to be so qualified or in good standing, as the case may be, could not have or reasonably be expected to result in: (i) a material adverse effect on the legality, validity or enforceability of any Transaction Document, (ii) a material adverse effect on the results of operations, assets, business, prospects or condition (financial or otherwise) of the Company and the Subsidiaries, taken as a whole, or (iii) a material adverse effect on the Company’s ability to perform in any material respect on a timely basis its obligations under any Transaction Document (any of (i), (ii) or (iii), a “Material Adverse Effect”) and no Proceeding has been instituted in any such jurisdiction revoking, limiting or curtailing or seeking to revoke, limit or curtail such power and authority or qualification.

4.2 Authorization. All Company action has been taken on the part of the Company necessary for the authorization, execution and delivery of this Agreement and the Note. Except as may be limited by applicable bankruptcy, insolvency, reorganization or similar laws relating to or affecting the enforcement of creditors’ rights, the Company has taken all action required to make all of the obligations of the Company reflected in the provisions of this Agreement and the other Transaction Documents, the valid and enforceable obligations they purport to be.

4.3 Compliance with Other Instruments. Neither the authorization, execution and delivery of this Agreement, nor the issuance and delivery of the Note, will constitute or result in a material default or violation of any law or regulation applicable to the Company or any material term or provision of the Company’s current Certificate of Incorporation (as amended and restated to date), By-laws (as amended and restated to date) or any material agreement or instrument by which it is bound or to which its properties or assets are subject.

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4.4 Subsidiaries. All of the direct and indirect subsidiaries of the Company are as set forth in the SEC Reports. The Company owns, directly or indirectly, all of the capital stock or other equity interests of each Subsidiary free and clear of any Liens, and all of the issued and outstanding shares of capital stock of each Subsidiary are validly issued and are fully paid, non-assessable and free of preemptive and similar rights to subscribe for or purchase securities. If the Company has no subsidiaries, all other references to the Subsidiaries or any of them in the Transaction Documents shall be disregarded.

4.5 Filings, Consents and Approvals. The Company is not required to obtain any consent, waiver, authorization or order of, give any notice to, or make any filing or registration with, any court or other federal, state, local or other governmental authority or other Person in connection with the execution, delivery and performance by the Company of the Transaction Documents, other than the filing of Form D with the Commission and such filings as are required to be made under applicable state securities laws (collectively, the "Required Approvals").

4.6 [Intentionally omitted].

4.7 [Intentionally omitted].

4.8 SEC Reports: Financial Statements. The Company has filed all reports, schedules, forms, statements and other documents required to be filed by the Company under the Securities Act and the Exchange Act, including pursuant to Section 13(a) or 15(d) thereof, for the two years preceding the date hereof (or such shorter period as the Company was required by law or regulation to file such material) (the foregoing materials, including the exhibits thereto and documents incorporated by reference therein, being collectively referred to herein as the "SEC Reports") on a timely basis or has received a valid extension of such time of filing and has filed any such SEC Reports prior to the expiration of any such extension. As of their respective dates, the SEC Reports complied in all material respects with the requirements of the Securities Act and the Exchange Act, as applicable, and none of the SEC Reports, when filed, contained any untrue statement of a material fact or omitted to state a material fact required to be stated therein or necessary in order to make the statements therein, in the light of the circumstances under which they were made, not misleading. The financial statements of the Company included in the SEC Reports comply in all material respects with applicable accounting requirements and the rules and regulations of the Commission with respect thereto as in effect at the time of filing. Such financial statements have been prepared in accordance with United States generally accepted accounting principles applied on a consistent basis during the periods involved ("GAAP"), except as may be otherwise specified in such financial statements or the notes thereto and except that unaudited financial statements may not contain all footnotes required by GAAP, and fairly present in all material respects the financial position of the Company and its consolidated Subsidiaries as of and for the dates thereof and the results of operations and cash flows for the periods then ended, subject, in the case of unaudited statements, to normal, immaterial, year-end audit adjustments.

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4.9 Material Changes; Undisclosed Events, Liabilities or Developments. Since the date of the latest audited financial statements included within the SEC Reports, except as specifically disclosed in a subsequent SEC Report filed prior to the date hereof: (i) there has been no event, occurrence or development that has had or that could reasonably be expected to result in a Material Adverse Effect, (ii) except as set forth on Schedule 4.9, the Company has not incurred any liabilities (contingent or otherwise) other than (A) trade payables and accrued expenses incurred in the ordinary course of business consistent with past practice and (B) liabilities not required to be reflected in the Company's financial statements pursuant to GAAP or disclosed in filings made with the Commission, (iii) the Company has not altered its method of accounting, (iv) the Company has not declared or made any dividend or distribution of cash or other property to its stockholders or purchased, redeemed or made any agreements to purchase or redeem any shares of its capital stock and (v) the Company has not issued any equity securities to any officer, director or Affiliate, except pursuant to existing Company stock option plans. The Company does not have pending before the Commission any request for confidential treatment of information. No event, liability, fact, circumstance, occurrence or development has occurred or exists or is reasonably expected to occur or exist with respect to the Company or its Subsidiaries or their respective businesses, properties, operations, assets or financial condition, that would be required to be disclosed by the Company under applicable securities laws at the time this representation is made or deemed made that has not been publicly disclosed at least 1 Trading Day prior to the date that this representation is made.

4.10 Litigation. Except as set forth on Schedule 4.10, there is no action, suit, inquiry, notice of violation, proceeding or investigation pending or, to the knowledge of the Company, threatened against or affecting the Company, any Subsidiary or any of their respective properties before or by any court, arbitrator, governmental or administrative agency or regulatory authority (federal, state, county, local or foreign) (collectively, an "Action") which (i) adversely affects or challenges the legality, validity or enforceability of any of the Transaction Documents or the Note or (ii) could, if there were an unfavorable decision, have or reasonably be expected to result in a Material Adverse Effect. Neither the Company nor any Subsidiary, nor any director or officer thereof, is or has been the subject of any Action involving a claim of violation of or liability under federal or state securities laws or a claim of breach of fiduciary duty. There has not been, and to the knowledge of the Company, there is not pending or contemplated, any investigation by the Commission involving the Company or any current or former director or officer of the Company. The Commission has not issued any stop order or other order suspending the effectiveness of any registration statement filed by the Company or any Subsidiary under the Exchange Act or the Securities Act.

4.11 Labor Relations. No labor dispute exists or, to the knowledge of the Company, is imminent with respect to any of the employees of the Company, which could reasonably be expected to result in a Material Adverse Effect. None of the Company's or its Subsidiaries' employees is a member of a union that relates to such employee's relationship with the Company or such Subsidiary, and neither the Company nor any of its Subsidiaries is a party to a collective bargaining agreement, and the Company and its Subsidiaries believe that their relationships with their employees are good. To the knowledge of the Company, no executive officer of the Company or any Subsidiary, is, or is now expected to be, in violation of any material term of any employment contract, confidentiality, disclosure or proprietary information agreement or non-competition agreement, or any other contract or agreement or any restrictive covenant in favor of any third party, and the continued employment of each such executive officer does not subject the Company or any of its Subsidiaries to any liability with respect to any of the foregoing matters. The Company and its Subsidiaries are in compliance with all U.S. federal, state, local and foreign laws and regulations relating to employment and employment practices, terms and conditions of employment and wages and hours, except where the failure to be in compliance could not, individually or in the aggregate, reasonably be expected to have a Material Adverse Effect.

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4.12 Compliance. Neither the Company nor any Subsidiary: (i) is in default under or in violation of (and no event has occurred that has not been waived that, with notice or lapse of time or both, would result in a default by the Company or any Subsidiary under), nor has the Company or any Subsidiary received notice of a claim that it is in default under or that it is in violation of, any indenture, loan or credit agreement or any other agreement or instrument to which it is a party or by which it or any of its properties is bound (whether or not such default or violation has been waived), (ii) is in violation of any judgment, decree or order of any court, arbitrator or other governmental authority or (iii) is or has been in violation of any statute, rule, ordinance or regulation of any governmental authority, including without limitation all foreign, federal, state and local laws relating to taxes, environmental protection, occupational health and safety, product quality and safety and employment and labor matters, except in each case as could not have or reasonably be expected to result in a Material Adverse Effect.

4.13 Environmental Laws. The Company and its Subsidiaries (i) are in compliance with all federal, state, local and foreign laws relating to pollution or protection of human health or the environment (including ambient air, surface water, groundwater, land surface or subsurface strata), including laws relating to emissions, discharges, releases or threatened releases of chemicals, pollutants, contaminants, or toxic or hazardous substances or wastes (collectively, "Hazardous Materials") into the environment, or otherwise relating to the manufacture, processing, distribution, use, treatment, storage, disposal, transport or handling of Hazardous Materials, as well as all authorizations, codes, decrees, demands, or demand letters, injunctions, judgments, licenses, notices or notice letters, orders, permits, plans or regulations, issued, entered, promulgated or approved thereunder ("Environmental Laws"); (ii) have received all permits licenses or other approvals required of them under applicable Environmental Laws to conduct their respective businesses; and (iii) are in compliance with all terms and conditions of any such permit, license or approval where in each clause (i), (ii) and (iii), the failure to so comply could be reasonably expected to have, individually or in the aggregate, a Material Adverse Effect.

4.14 Regulatory Permits. The Company and the Subsidiaries possess all certificates, authorizations and permits issued by the appropriate federal, state, local or foreign regulatory authorities necessary to conduct their respective businesses as described in the SEC Reports, except where the failure to possess such permits could not reasonably be expected to result in a Material Adverse Effect ("Material Permits"), and neither the Company nor any Subsidiary has received any notice of proceedings relating to the revocation or modification of any Material Permit.

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4.15 Title to Assets. The Company and the Subsidiaries have good and marketable title in fee simple to all real property owned by them and good and marketable title in all personal property owned by them that is material to the business of the Company and the Subsidiaries, in each case free and clear of all Liens, except for (i) Liens as do not materially affect the value of such property and do not materially interfere with the use made and proposed to be made of such property by the Company and the Subsidiaries and (ii) Liens for the payment of federal, state or other taxes, for which appropriate reserves have been made therefor in accordance with GAAP and, the payment of which is neither delinquent nor subject to penalties. Any real property and facilities held under lease by the Company and the Subsidiaries are held by them under valid, subsisting and enforceable leases with which the Company and the Subsidiaries are in compliance.

4.16 Intellectual Property. To the Company's knowledge, the Company and the Subsidiaries have, or have rights to use, all patents, patent applications, trademarks, trademark applications, service marks, trade names, trade secrets, inventions, copyrights, licenses and other intellectual property rights and similar rights as described in the SEC Reports as necessary or required for use in connection with their respective businesses and which the failure to so have could have a Material Adverse Effect (collectively, the "Intellectual Property Rights"). None of, and neither the Company nor any Subsidiary has received a notice (written or otherwise) that any of, the Intellectual Property Rights has expired, terminated or been abandoned, or is expected to expire or terminate or be abandoned, within two (2) years from the date of this Agreement. Neither the Company nor any Subsidiary has received, since the date of the latest audited financial statements included within the SEC Reports, a written notice of a claim or otherwise has any knowledge that the Intellectual Property Rights violate or infringe upon the rights of any Person, except as could not have or reasonably be expected to not have a Material Adverse Effect. To the knowledge of the Company, all such Intellectual Property Rights are enforceable and there is no existing infringement by another Person of any of the Intellectual Property Rights. The Company and its Subsidiaries have taken reasonable security measures to protect the secrecy, confidentiality and value of all of their intellectual properties, except where failure to do so could not, individually or in the aggregate, reasonably be expected to have a Material Adverse Effect.

4.17 Insurance. The Company and the Subsidiaries are insured by insurers of recognized financial responsibility against such losses and risks and in such amounts as are prudent and customary in the businesses in which the Company and the Subsidiaries are engaged, including, but not limited to, directors and officers insurance coverage at least equal to the aggregate Purchase Price. Neither the Company nor any Subsidiary has any reason to believe that it will not be able to renew its existing insurance coverage as and when such coverage expires or to obtain similar coverage from similar insurers as may be necessary to continue its business without a significant increase in cost.

4.18 Transactions With Affiliates and Employees. Except as set forth on Schedule 4.18, none of the officers or directors of the Company or any Subsidiary and, to the knowledge of the Company, none of the employees of the Company or any Subsidiary is presently a party to any transaction with the Company or any Subsidiary (other than for services as employees, officers and directors), including any contract, agreement or other arrangement providing for the furnishing of services to or by, providing for rental of real or personal property to or from providing for the borrowing of money from or lending of money to, or otherwise requiring payments to or from any officer, director or such employee or, to the knowledge of the Company, any entity in which any officer, director, or any such employee has a substantial interest or is an officer, director, trustee, stockholder, member or partner, in each case in excess of \$120,000 other than for: (i) payment of salary or consulting fees for services rendered, (ii) reimbursement for expenses incurred on behalf of the Company and (iii) other employee benefits, including stock option agreements under any stock option plan of the Company.

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4.19 Sarbanes-Oxley: Internal Accounting Controls. The Company and the Subsidiaries are in compliance with any and all applicable requirements of the Sarbanes-Oxley Act of 2002 that are effective as of the date hereof, and any and all applicable rules and regulations promulgated by the Commission thereunder that are effective as of the date hereof and as of the Closing Date. Except as set forth on Schedule 4.19, the Company and the Subsidiaries maintain a system of internal accounting controls sufficient to provide reasonable assurance that: (i) transactions are executed in accordance with management's general or specific authorizations, (ii) transactions are recorded as necessary to permit preparation of financial statements in conformity with GAAP and to maintain asset accountability, (iii) access to assets is permitted only in accordance with management's general or specific authorization, and (iv) the recorded accountability for assets is compared with the existing assets at reasonable intervals and appropriate action is taken with respect to any differences. Except as set forth on Schedule 4.19, the Company and the Subsidiaries have established disclosure controls and procedures (as defined in Exchange Act Rules 13a-15(e) and 15d-15(e)) for the Company and the Subsidiaries and designed such disclosure controls and procedures to ensure that information required to be disclosed by the Company in the reports it files or submits under the Exchange Act is recorded, processed, summarized and reported, within the time periods specified in the Commission's rules and forms. The Company's certifying officers have evaluated the effectiveness of the disclosure controls and procedures of the Company and the Subsidiaries as of the end of the period covered by the most recently filed periodic report under the Exchange Act (such date, the "Evaluation Date"). The Company presented in its most recently filed periodic report under the Exchange Act the conclusions of the certifying officers about the effectiveness of the disclosure controls and procedures based on their evaluations as of the Evaluation Date. Since the Evaluation Date, there have been no changes in the internal control over financial reporting (as such term is defined in the Exchange Act) that have materially affected, or is reasonably likely to materially affect, the internal control over financial reporting of the Company and its Subsidiaries.

4.20 Private Placement. Assuming the accuracy of the Lender's representations and warranties set forth in Section 5, no registration under the Securities Act is required for the offer and sale of the Note by the Company to the Lender as contemplated hereby.

4.21 Investment Company. The Company is not, and is not an Affiliate of, and immediately after receipt of payment for the Securities, will not be or be an Affiliate of, an "investment company" within the meaning of the Investment Company Act of 1940, as amended. The Company shall conduct its business in a manner so that it will not become an "investment company" subject to registration under the Investment Company Act of 1940, as amended.

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4.22 No Disagreements with Accountants and Lawyers. Except as set forth on Schedule 4.22, there are no disagreements of any kind presently existing, or reasonably anticipated by the Company to arise, between the Company and the accountants and lawyers formerly or presently employed by the Company and the Company is current with respect to any fees owed to its accountants and lawyers which could affect the Company's ability to perform any of its obligations under any of the Transaction Documents.

4.23 Seniority. As of the Closing Date, no Indebtedness or other claim against the Company is senior to the Note in right of payment, whether with respect to interest or upon liquidation or dissolution, or otherwise, other than indebtedness secured by purchase money security interests (which is senior only as to underlying assets covered thereby) and capital lease obligations (which is senior only as to the property covered thereby).

4.24 No Integrated Offering. Assuming the accuracy of the Lender's representations and warranties set forth in Section 5, neither the Company, nor any of its Affiliates, nor any Person acting on its or their behalf has, directly or indirectly, made any offers or sales of any security or solicited any offers to buy any security, under circumstances that would cause this offering of the Note to be integrated with prior offerings by the Company for purposes of (i) the Securities Act which would require the registration of any such securities under the Securities Act, or (ii) any applicable shareholder approval provisions of any Trading Market on which any of the securities of the Company are listed or designated.

4.25 No Disqualification Events. With respect to the Note to be offered and sold hereunder in reliance on Rule 506 under the Securities Act, none of the Company, any of its predecessors, any affiliated issuer, any director, executive officer, other officer of the Company participating in the offering hereunder, any beneficial owner of 20% or more of the Company's outstanding voting equity securities, calculated on the basis of voting power, nor any promoter (as that term is defined in Rule 405 under the Securities Act) connected with the Company in any capacity at the time of sale (each, an "Issuer Covered Person" and, together, "Issuer Covered Persons") is subject to any of the "Bad Actor" disqualifications described in Rule 506(d)(1)(i) to (viii) under the Securities Act (a "Disqualification Event"), except for a Disqualification Event covered by Rule 506(d)(2) or (d)(3). The Company has exercised reasonable care to determine whether any Issuer Covered Person is subject to a Disqualification Event. The Company has complied, to the extent applicable, with its disclosure obligations under Rule 506(e), and has furnished to the Lender a copy of any disclosures provided thereunder.

5. Representations and Warranties of the Lender. In connection with the purchase and sale of Note provided for herein, the Lender hereby represents and warrants to the Company that:

5.1 Authorization. This Agreement constitutes the Lender's valid and legally binding obligation, enforceable in accordance with its terms, except as may be limited by (i) applicable bankruptcy, insolvency, reorganization or similar laws relating to or affecting the enforcement of creditors' rights and (ii) laws relating to the availability of specific performance, injunctive relief or other equitable remedies. The Lender represents that it has full power and authority to enter into this Agreement.

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5.2 Purchase Entirely for Own Account. The Lender acknowledges that this Agreement is made with the Lender in reliance upon the Lender's representation to the Company that the Note and the securities of the Company that may be issuable upon conversion of the Note (collectively, the "Securities") will be acquired for investment for the Lender's own account, not as a nominee or agent, and not with a view to the resale or distribution of any part thereof, and that the Lender has no present intention of selling, granting any participation in, or otherwise distributing the same. By executing this Agreement, the Lender further represents that the Lender does not have any contract, undertaking, agreement or arrangement with any person to sell, transfer or grant participations to such person or to any third person, with respect to the Securities.

5.3 Disclosure of Information. The Lender acknowledges that it has received all the information it considers necessary or appropriate for deciding whether to acquire the Securities. The Lender further represents that it has had an opportunity to ask questions of and receive answers from the Company regarding the terms and conditions of the offering of the Securities, and that such questions have been answered to the Lender's satisfaction.

5.4 Investment Experience. The Lender is an investor in securities of companies in the development stage and acknowledges that it is able to fend for itself, can bear the economic risk of its investment and has such knowledge and experience in financial or business matters that it is capable of evaluating the merits and risks of the investment in the Securities. If other than an individual, the Lender also represents it has not been organized solely for the purpose of acquiring the Securities.

5.5 Accredited Investor. The Lender is an "accredited investor" within the meaning of Rule 501 of Regulation D of the Securities Act.

5.6 Restricted Securities. The Lender understands that the Securities are characterized as "restricted securities" under the federal securities laws inasmuch as they are being acquired from the Company in a transaction not involving a public offering and that under such laws and applicable regulations such securities may be resold without registration under the Securities Act only in certain limited circumstances. The Lender represents that it is familiar with Rule 144 promulgated under the Securities Act, as presently in effect, and understands the resale limitations imposed thereby and by the Securities Act.

5.7 Legends. It is understood that the Securities may bear a legend substantially as follows:

"THESE SECURITIES HAVE NOT BEEN REGISTERED UNDER THE SECURITIES ACT OF 1933, AS AMENDED. THEY MAY NOT BE SOLD, OFFERED FOR SALE, PLEDGED, HYPOTHECATED OR OTHERWISE TRANSFERRED EXCEPT PURSUANT TO AN EFFECTIVE REGISTRATION STATEMENT UNDER THE SECURITIES ACT OF 1933, AS AMENDED, OR AN OPINION OF COUNSEL SATISFACTORY TO THE COMPANY THAT REGISTRATION IS NOT REQUIRED UNDER SUCH ACT OR UNLESS SOLD PURSUANT TO RULE 144 UNDER SUCH ACT."

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5.8 Reserved.

5.9 Execution of Financing Documents. The Lender hereby acknowledges and agrees that, if the Note is converted in connection with a Qualified Financing (as defined in the Note), then the Lender shall be required to (and hereby agrees that it shall) execute and deliver to the Company, in connection with and as a condition to such conversion and the issuance by the Company of any securities of the Company as a result thereof, such agreements (or counterpart signature pages or joinders thereto, as applicable) relating to the purchase and sale of such securities as were executed and delivered by the purchasers of such securities in the Qualified Financing as may reasonably be requested by the Company.

6. Defaults and Remedies.

6.1 Events of Default. The following events shall be considered Events of Default with respect to the Note:

(a) The Company shall default in the payment of any part of the principal or unpaid accrued interest on the Note for more than five (5) days after such payments are due;

(b) The Company ceases to negotiate in good faith with respect to a strategic acquisition of Lender or terminates, for any reason, or breaches any agreement entered into by the Company for the acquisition of Lender;

(c) The Company shall make an assignment for the benefit of creditors, or shall admit in writing its inability to pay its debts as they become due, or shall file a voluntary petition for bankruptcy, or shall file any petition or answer seeking for itself any reorganization, arrangement, composition, readjustment, dissolution or similar relief under any present or future statute, law or regulation, or shall file any answer admitting the material allegations of a petition filed against the Company in any such proceeding, or shall seek or consent to or acquiesce in the appointment of any trustee, receiver or liquidator of the Company, or of all or any substantial part of the properties of the Company, or the Company or its directors shall take any action looking to the dissolution or liquidation of the Company;

(d) Within twenty (20) days after the commencement of any proceeding against the Company seeking any bankruptcy reorganization, arrangement, composition, readjustment, liquidation, dissolution or similar relief under any present or future statute, law or regulation, such proceeding shall not have been dismissed, or within twenty (20) days after the appointment without the consent or acquiescence of the Company of any trustee, receiver or liquidator of the Company or of all or any substantial part of the properties of the Company, such appointment shall not have been vacated;

(e) The Company shall fail to observe or perform any other obligation to be observed or performed by it under this Agreement or the other Transaction Documents within ten (10) days after written notice from the Lender to perform or observe such obligation;

(f) A Change of Control Event with respect to the Company shall have occurred;

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(g) Any money judgment, writ or similar final process shall be entered or filed against the Company or any Subsidiary or any of their property or other assets for more than \$250,000, and shall remain unvacated, unbonded, unappealed, unsatisfied, or unstayed for a period of 60 calendar days;

(h) A default by the Company under any one or more obligations (including, without limitation, any office lease or pre-existing loan currently outstanding) in an aggregate monetary amount in excess of \$100,000 for more than 90 calendar days after the due date, unless the Company is contesting the validity of such obligation in good faith and has segregated cash funds equal to not less than one-half of the contested amount; or

(i) Any material representation or warranty of the Company made in the Agreement which is false or misleading in any material respect as of the Execution Date, except to the extent such representation or warranty is made as of a different date in which case such representation or warranty shall have been false or misleading in any material respect as of such date.

6.2 Remedies. Upon the occurrence of an Event of Default under Section 6.1 hereof in addition to the remedy set forth in Section 7 of the Note, at the option and upon the declaration of the Lender, the entire unpaid principal and accrued and unpaid interest on the Note shall, without presentment, demand, protest, or notice of any kind, all of which are hereby expressly waived, be forthwith due and payable, and the Lender may, immediately and without expiration of any period of grace, enforce payment of all amounts due and owing under the Note and exercise any and all other remedies granted at law, in equity or otherwise.

## 7. Miscellaneous.

7.1 Successors and Assigns. Except as otherwise provided herein, the terms and conditions of this Agreement shall inure to the benefit of and be binding upon the respective successors and assigns of the parties. Nothing in this Agreement, express or implied, is intended to confer upon any party other than the parties hereto or their respective successors and assigns any rights, remedies, obligations or liabilities under or by reason of this Agreement, except as expressly provided in this Agreement.

7.2 Governing Law. This Agreement and the Notes shall be governed by and construed under the laws of the State of California as applied to agreements among California residents, made and to be performed entirely within the State of California. The Lender hereby expressly consents to the exclusive jurisdiction of the state and federal courts situated in the City of San Jose, County of Santa Clara in the State of California for all actions arising out of, or relating to this Agreement, and irrevocably waives the defense of inconvenient forum to the maintenance of such action or proceeding.

7.3 Execution. 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 one and the same instrument. In the event that any signature is delivered by facsimile transmission or by e-mail delivery of a “.pdf” format data file, such signature shall create a valid and binding obligation of the party execution (or on whose behalf such signature is executed) with the same force and effect as if such facsimile or “.pdf” signature page were an original thereof.

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7.4 Titles and Subtitles. The titles and subtitles used in this Agreement are used for convenience only and are not to be considered in construing or interpreting this Agreement.

7.5 Notices. All notices and other communications given or made pursuant hereto shall be in writing and shall be deemed effectively given: (i) upon personal delivery to the party to be notified; (ii) when sent by confirmed electronic mail or facsimile if sent during normal business hours of the recipient, if not so confirmed, then on the next business day; (iii) five (5) days after having been sent by registered or certified mail, return receipt requested, postage prepaid; or (iv) one (1) day after deposit with a nationally recognized overnight courier, specifying next day delivery, with written verification of receipt. All communications shall be sent to the respective parties at the addresses set forth on the signature page hereto (or at such other addresses as shall be specified by notice given in accordance with this Section 7.5).

7.6 Expenses. If any action at law or in equity is necessary to enforce or interpret the terms of this Agreement, the prevailing party shall be entitled to reasonable attorneys' fees, costs and necessary disbursements in addition to any other relief to which such party may be entitled. Each party hereto shall pay all costs and expenses that it incurs with respect to the negotiation, execution, delivery and performance of this Agreement.

7.7 Entire Agreement; Amendments and Waivers. This Agreement and the Note and the other documents delivered pursuant hereto constitute the full and entire understanding and agreement between the parties with regard to the subjects hereof and thereof. Any term of this Agreement or the Note may be amended and the observance of any term of this Agreement or the Note may be waived (either generally or in a particular instance and either retroactively or prospectively), with the written consent of the Company and the Lender. Any waiver or amendment effected in accordance with this Section shall be binding upon each party to this Agreement and any future holder of the Note.

7.8 Severability. If one or more provisions of this Agreement are held to be unenforceable under applicable law, such provision shall be excluded from this Agreement and the balance of this Agreement shall be interpreted as if such provision were so excluded and shall be enforceable in accordance with its terms.

7.9 Acknowledgement. In order to avoid doubt, it is acknowledged that the Lender shall be entitled to the benefit of all adjustments in the number of shares of Common Stock of the Company issuable as a result of any splits, recapitalizations, combinations or other similar transaction affecting the Company's common stock that occur prior to the conversion of the Note.

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7.10 Indemnity; Costs, Expenses and Attorneys' Fees. The Company shall indemnify and hold the Lender harmless from any loss, cost, liability and legal or other expense, including attorneys' fees of the Lender's counsel, which the Lender may directly or indirectly suffer or incur by reason of the failure of the Company to perform any of its obligations under this Agreement, the Note, any agreement executed in connection herewith or therewith, any grant of or exercise of remedies with respect to any collateral at any time securing any obligations evidenced by this Agreement or the Note, or the Lender's execution or performance of this Agreement or any agreement executed in connection herewith, provided, however, that the indemnity provided by this section shall not apply to liabilities that the Lender may directly or indirectly suffer or incur by reason of the Lender's gross negligence, willful misconduct or fraud.

7.11 Further Assurance. From time to time, the Company shall execute and deliver to the Lender such additional documents and shall provide such additional information to the Lender as the Lender may reasonably require to carry out the terms of this Agreement and the Note, and any agreements executed in connection herewith or therewith.

7.12. Confidentiality. The Lender acknowledges and agrees that any information or data it has acquired from or about the Company, not otherwise properly in the public domain, was received in confidence. The Lender agrees not to divulge, communicate or disclose, except as may be required by law or for the performance of this Agreement, or use to the detriment of the Company or for the benefit of any other person or persons, or misuse in any way, any confidential information of the Company, including any technical, trade or business secrets of the Company and any technical, trade or business materials that are treated by the Company as confidential or proprietary, and confidential information obtained by or given to the Company about or belonging to third parties.

*[remainder of page intentionally left blank; signature page follows]*

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IN WITNESS WHEREOF, the parties hereto have executed this Agreement as of the day and year first set forth above.

**POINTR DATA INC.**

**MATEON THERAPEUTICS, INC.**

By: /s/ Saran Saund

Saran Saund  
(Print Name)

By: /s/ Vuong Trieu

Vuong Trieu, CEO  
(Print Name)

(Address for Notices and Investment Decisions)

960 Saratoga Avenue, Suite 206  
San Jose, CA 95129

Note Principal: \$200,000

Purchase Price: \$200,000

Closing Date: July 22<sup>nd</sup>, 2019

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**EXHIBIT A**

**Form of Promissory Note**

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