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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): November 3, 2025 (October 31, 2025)**

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**Qnity Electronics, Inc.**  
(Exact name of registrant as specified in its charter)

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**Delaware**  
(State or other jurisdiction  
of incorporation)

**001-42619**  
(Commission  
File Number)

**33-3002745**  
(IRS Employer  
Identification No.)

**974 Centre Road, Building 735**  
**Wilmington, Delaware**  
(Address of principal executive offices)

**19805**  
(Zip Code)

**1 (302) 294-4651**  
(Registrant's Telephone Number, Including Area Code)

**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:

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

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

| Title of each class                      | Trading<br>Symbol(s) | Name of each exchange<br>on which registered |
|------------------------------------------|----------------------|----------------------------------------------|
| Common Stock, par value \$0.01 per share | Q                    | New York Stock Exchange                      |

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.**

Effective as of 12:03 a.m. on November 1, 2025 (the “Effective Time”), DuPont de Nemours, Inc., a Delaware corporation (“DuPont”), completed the previously announced separation of its Electronics business, Qnity Electronics, Inc., a Delaware corporation and wholly owned subsidiary of DuPont (the “Company” or “Qnity”), into a separate and independent public company (the “Separation”) through a pro rata dividend in-kind of all of the then-issued and outstanding shares of Qnity’s common stock, par value \$0.01 per share (the “Qnity Common Stock”), to holders of DuPont’s common stock, par value \$0.01 per share (the “DuPont Common Stock”), as of the close of business on October 22, 2025 (the “Distribution”).

As a result of the Distribution, as of the Effective Time, the Company became an independent, publicly traded company, and the Qnity Common Stock will commence “regular way” trading on the New York Stock Exchange under the symbol “Q” at the start of trading on November 3, 2025.

In connection with the Separation, effective as of November 1, 2025, Qnity and/or certain of its affiliates entered into certain agreements with DuPont and/or certain of its affiliates, including each of the following:

- Separation and Distribution Agreement;
- Tax Matters Agreement;
- Employee Matters Agreement;
- Intellectual Property Cross-License Agreement;
- Transition Services Agreement; and
- Legacy Liabilities Assignment Agreement.

A summary of each of the foregoing agreements can be found in the section entitled “Our Relationship with DuPont Following the Distribution” in the Company’s information statement (the “Information Statement”) filed as Exhibit 99.1 to the Current Report on Form 8-K that was filed by the Company with the U.S. Securities and Exchange Commission (the “SEC”) on October 15, 2025, which summaries are incorporated by reference into this Item 1.01 as if restated in their entirety herein. The descriptions of the foregoing agreements contained in the Information Statement do not purport to be complete, and the descriptions set forth therein are qualified in their entirety by reference to the complete terms of those agreements, which are filed as Exhibits 2.1, 10.1, 10.2, 10.3, 10.4 and 10.5, respectively, hereto.

***Separation and Distribution Agreement***

The Company entered into a Separation and Distribution Agreement with DuPont, effective as of November 1, 2025 (the “Separation Agreement”), that sets forth, among other things, the agreements between the Company and DuPont regarding the principal transactions necessary to effect the Distribution. It also sets forth other agreements that govern certain aspects of the Company’s and DuPont’s ongoing relationship after the completion of the Distribution. The description of the Separation Agreement set forth under this Item 1.01 is qualified in its entirety by reference to the complete terms and conditions of the Separation Agreement attached hereto as Exhibit 2.1, which is incorporated by reference herein.

***Tax Matters Agreement***

The Company entered into a Tax Matters Agreement with DuPont, effective as of November 1, 2025 (the “Tax Matters Agreement”). The Tax Matters Agreement governs the Company’s and DuPont’s respective rights, responsibilities and obligations with respect to tax liabilities and benefits, tax attributes, the preparation and filing of tax returns, the control of audits and other tax proceedings and other matters regarding taxes. The description of the Tax Matters Agreement set forth under this Item 1.01 is qualified in its entirety by reference to the complete terms and conditions of the Tax Matters Agreement attached hereto as Exhibit 10.1, which is incorporated by reference herein.

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### ***Employee Matters Agreement***

The Company entered into an Employee Matters Agreement with DuPont, effective as of November 1, 2025 (the “Employee Matters Agreement”). The Employee Matters Agreement identifies employees and employee-related liabilities (and attributable assets) contractually allocated (either retained, transferred and accepted, or assigned and assumed, as applicable) to the Company and DuPont as part of the Distribution and describes when and how the relevant transfers and assignments occur or will occur. The description of the Employee Matters Agreement set forth under this Item 1.01 is qualified in its entirety by reference to the complete terms and conditions of the Employee Matters Agreement attached hereto as Exhibit 10.2, which is incorporated by reference herein.

### ***Transition Services Agreements***

The Company entered into Transition Services Agreements with DuPont, effective as of November 1, 2025 (the “Transition Services Agreements”). Pursuant to the Transition Services Agreements, DuPont will provide certain transitional services to the Company and the Company will provide certain transitional services to DuPont. The description of the Transition Services Agreements set forth under this Item 1.01 is qualified in its entirety by reference to the complete terms and conditions of the Transition Services Agreement under which DuPont will provide transitional services to the Company and attached hereto as Exhibit 10.3, which is incorporated by reference herein. The terms and conditions of the Transition Services Agreement under which the Company will provide transitional services to DuPont are on substantially similar terms as those set forth in Exhibit 10.3.

### ***Intellectual Property Cross-License Agreement***

The Company entered into an Intellectual Property Cross-License Agreement with DuPont, effective as of November 1, 2025 (the “IP Cross-License Agreement”). The IP Cross-License Agreement sets forth the terms and conditions pursuant to which the Company and DuPont may use, following the Distribution, certain patents, know-how (including trade secrets), copyrights and software contractually allocated to the other party under the Separation Agreement in the conduct of their respective businesses and natural evolutions thereof. DuPont also licenses to the Company certain engineering, safety, health and environmental standards that are contractually allocated to DuPont under the Separation Agreement and used by the Company’s businesses as of the Distribution. The description of the IP Cross-License Agreement set forth under this Item 1.01 is qualified in its entirety by reference to the complete terms and conditions of the IP Cross-License Agreement attached hereto as Exhibit 10.4, which is incorporated by reference herein.

### ***Legacy Liabilities Assignment Agreement***

The Company entered into an assignment agreement with DuPont, effective as of November 1, 2025 (the “Legacy Liabilities Assignment Agreement”). Pursuant to the Legacy Liabilities Assignment Agreement, (i)(A) the Applicable ElectronicsCo Percentage (as defined in the Separation Agreement) of any Legacy Liabilities (as defined in that certain Letter Agreement, dated as of June 1, 2019, by and between DuPont (f/k/a DowDuPont Inc.) and Corteva, Inc. (the “Corteva Letter Agreement”)) and (B) the Applicable ElectronicsCo Percentage of any funding obligations of DuPont under that certain Memorandum of Understanding, dated as of January 22, 2021, by and among DuPont, Corteva, Inc., E. I. du Pont de Nemours and Company and The Chemours Company, including with respect to the funding of the escrow account thereunder, will be contractually allocated to the Company (and for which the Company will indemnify DuPont), and (ii) the Company will be bound by, and subject to, on a partially assigned basis, certain terms and conditions of the Corteva Letter Agreement, including the same limitations on the Company’s ability to transfer to third parties or separate the Company’s businesses and assets without assigning certain Legacy Liabilities contractually allocated to the Company in connection with the Separation to such separated businesses and assets or transferees or meeting certain other alternative conditions, except that the value of the Minimum EBITDA (as defined in the Corteva Letter Agreement) will be an amount equal to (i) \$2,500,000,000, multiplied by (ii) the Applicable ElectronicsCo Percentage. The description of the Legacy Liabilities Assignment Agreement set forth under this Item 1.01 is qualified in its entirety by reference to the

complete terms and conditions of the Legacy Liabilities Assignment Agreement attached hereto as Exhibit 10.5, which is incorporated by reference herein. The Company will publicly disclose the numeric percentage of the Applicable ElectronicsCo Percentage and the resulting Minimum EBITDA in respect of Qnity once determined after the Distribution. The Legacy Liabilities Assignment Agreement does not modify, alter, amend or otherwise change any of the indemnification-related rights or obligations of the parties to the Corteva Letter Agreement.

### ***Credit Agreement***

In connection with the Separation, the Company entered into a credit agreement (the “Credit Agreement”) on October 31, 2025, and certain other related documents (together with the Credit Agreement, the “Financing Transaction Documents”) pursuant to which the Company entered into, implemented and documented the Senior Secured Credit Facilities (as defined in the Information Statement). The Financing Transaction Documents incorporate terms and provisions that are usual and customary for facilities and transactions of this type and otherwise reasonably satisfactory to the administrative agent, the lenders party thereto and the Company.

The borrowings under the Senior Secured Credit Facilities bear interest at a rate per annum equal to either of the following, plus, in each case, an applicable margin: (a) the base rate or (b) term SOFR (in each case, as defined in a customary manner for facilities of this type). The applicable margin for borrowings under the Senior Secured Revolving Facility (as defined in the Information Statement) ranges from 0.25% to 1.25% with respect to base rate borrowings and 1.25% to 2.25% with respect to term SOFR borrowings, in each case, based on the Company’s consolidated first lien net leverage ratio. The applicable margin for borrowings under the Senior Secured Term Loan Facility (as defined in the Information Statement) is 1.00% with respect to base rate borrowings and 2.00% with respect to term SOFR borrowings.

The Credit Agreement allows the Company to voluntarily prepay outstanding loans under the Senior Secured Credit Facilities at any time without premium or penalty other than customary “breakage” costs; provided that, solely with respect to the Senior Secured Term Loan Facility, the Credit Agreement requires payment of a 1.00% prepayment premium on certain repricing transactions occurring within six (6) months after the Senior Secured Term Loan Facility is funded.

The Company is obligated to make scheduled amortization payments under the Senior Secured Term Loan Facility in equal quarterly installments in an annual amount equal to 1.00% of the original principal amount of the term loans payable on the last day of each calendar quarter, with the unpaid balance being due and payable at maturity. The Senior Secured Revolving Facility does not have any scheduled amortization.

All obligations under the Credit Agreement are unconditionally guaranteed by certain of the Company’s direct and indirect wholly owned subsidiaries organized under the laws of the United States of America (or any state thereof) and Japan, subject to customary exceptions, materiality thresholds and exclusions (collectively, the “Subsidiary Guarantors”). All obligations under the Credit Agreement, and the guarantees of those obligations, are secured by (x) substantially all of the Company’s assets and the assets of its Subsidiary Guarantors (including equity interests in such Subsidiary Guarantors) and (y) pledges over 100% of the equity interests of certain subsidiaries organized in the country of South Korea, in each case, subject to customary exceptions, exclusions and materiality thresholds as well as certain agreed security principles and local law restrictions with respect to assets and Subsidiary Guarantors located outside of the U.S.

With respect to the Senior Secured Revolving Facility, the Credit Agreement requires that the Company maintains, on a quarterly basis, a consolidated first lien net leverage ratio not to exceed 4.50:1.00, tested at the end of each fiscal quarter, subject to an increase of 0.50:1.00 in connection with the consummation of certain material acquisitions (as defined in a customary manner) and applicable to the fiscal quarter in which such acquisition is consummated and the four consecutive full fiscal quarters thereafter.

The Credit Agreement also contains representations and warranties, affirmative covenants and events of default, in each case, usual and customary for facilities and transactions of this type.



The description of the Credit Agreement set forth under this Item 1.01 is qualified in its entirety by reference to the complete terms and conditions of the Credit Agreement attached hereto as Exhibit 10.6, which is incorporated by reference herein.

### ***Qnity Notes Offering***

On August 15, 2025, Qnity completed the issuance and sale of \$1,000,000,000 aggregate principal amount of 5.750% senior secured notes due 2032 (the “Secured Notes”) and \$750,000,000 aggregate principal amount of 6.250% senior unsecured notes due 2033 (the “Unsecured Notes”, and together with the Secured Notes, the “Notes”). The offering and sale of the Notes (the “Notes Offering”) was made through a private transaction in reliance on exemptions from the registration requirements of the Securities Act of 1933, as amended. The gross proceeds of the Notes Offering was funded into escrow accounts. In connection with the Separation and the Distribution, the net proceeds of the Notes Offering and any remaining funds held in such escrow accounts were released from escrow on October 31, 2025 and, together with borrowings under the Senior Secured Credit Facilities and Qnity’s cash on hand, were used to partially fund the payment of a cash distribution to DuPont of approximately \$4.122 billion, inclusive of \$22 million of costs related to the Notes issuance on August 15, 2025, plus the pre-funded interest on the Notes through March 31, 2026 of \$66 million (and any investment returns on any amounts held in escrow in respect of the Notes issuance).

### ***Senior Secured Notes***

The Secured Notes were issued pursuant to an indenture, dated as of August 15, 2025 (the “Secured Notes Base Indenture”), by and between Qnity and U.S. Bank Trust Company, National Association, as trustee (the “Secured Notes Trustee”) and notes collateral agent. The Secured Notes mature on August 15, 2032 and bear interest at a rate of 5.750% per year. Interest on the Secured Notes is payable on February 15 and August 15 of each year, beginning on February 15, 2026.

In connection with the consummation of the Separation and the Distribution and the release of the net proceeds of the Notes Offering from the escrow accounts, (i) Qnity, the Secured Notes Trustee and each of Qnity’s Subsidiary Guarantor organized in the U.S. (the “U.S. Guarantors”), entered into the first supplemental indenture to the Secured Notes Base Indenture, dated as of November 1, 2025 (the “Secured Notes First Supplemental Indenture”), pursuant to which the U.S. Guarantors became party to the Secured Notes Indenture (as defined below) as guarantors and jointly and severally and unconditionally guaranteed all of Qnity’s obligations under the Secured Notes and the Secured Notes Indenture on a senior secured basis on the terms and conditions set forth in the Secured Notes Indenture; (ii) Qnity, the Secured Notes Trustee and each of Qnity’s Subsidiary Guarantors organized in Japan (the “Foreign Guarantors”), entered into the second supplemental indenture to the Secured Notes Base Indenture, dated as of November 2, 2025 (the “Secured Notes Second Supplemental Indenture”, and collectively with the Secured Notes Base Indenture and the Secured Notes First Supplemental Indenture, the “Secured Notes Indenture”), pursuant to which the Foreign Guarantors became party to the Secured Notes Indenture as guarantors and jointly and severally and unconditionally guaranteed all of Qnity’s obligations under the Secured Notes and the Secured Notes Indenture on a senior secured basis on the terms and conditions set forth in the Secured Notes Indenture.

The Secured Notes and related guarantees are secured, subject to permitted liens and certain other exceptions, by first priority liens on substantially the same collateral that secures Qnity’s obligations under its Senior Secured Credit Facilities. The Secured Notes and related guarantees are secured on a pari passu basis with the Senior Secured Credit Facilities.

At any time prior to August 15, 2028, Qnity may redeem some or all of the Secured Notes at a price equal to 100% of the principal amount thereof to be redeemed, plus a “make-whole” premium, plus accrued and unpaid interest, if any, to, but not including, the redemption date. In addition, Qnity may redeem some or all of the Secured Notes at any time on or after August 15, 2028 at specified prices, plus accrued and unpaid interest, if any, to, but not including, the redemption date. Qnity may also redeem up to 40% of the aggregate principal amount of the Secured Notes at any time on or prior to August 15, 2028 using the net proceeds from certain equity offerings at 105.750%, plus accrued and unpaid interest, if any, to, but not including, the redemption date. If Qnity experiences certain kinds of changes in control, Qnity must offer to repurchase the Secured Notes at a price equal to 101% of the principal amount of the Secured Notes, plus accrued and unpaid interest, if any, to, but not including, the repurchase date.

The Secured Notes Indenture includes certain covenants relating to debt incurrence, liens, restricted payments, asset sales, transactions with affiliates, changes in control, and mergers or sales of all or substantially all of Qnity's assets. The Secured Notes Indenture provides for customary events of default (subject, in certain cases, to customary grace periods), which include nonpayment on the Secured Notes, breach of covenants in the Secured Notes Indenture, payment defaults or acceleration of other indebtedness over a specified threshold, failure to pay certain judgments over a specified threshold and certain events of bankruptcy and insolvency. Generally, if an event of default occurs, the Secured Notes Trustee or holders of at least 30% of the aggregate principal amount of all then outstanding Secured Notes may declare the principal, premium, if any, interest and any other monetary obligations on all the then outstanding Secured Notes to be due and payable immediately.

#### *Senior Unsecured Notes*

The Unsecured Notes were issued pursuant to an indenture, dated as of August 15, 2025 (the "Unsecured Notes Base Indenture"), by and between Qnity and U.S. Bank Trust Company, National Association, as trustee (the "Unsecured Notes Trustee"). The Unsecured Notes mature on August 15, 2033 and bear interest at a rate of 6.250% per year. Interest on the Unsecured Notes is payable on February 15 and August 15 of each year, beginning on February 15, 2026.

In connection with the consummation of the Separation and the Distribution and the release of the net proceeds of the Notes Offering from the escrow accounts, (i) each of Qnity, the Unsecured Notes Trustee and the U.S. Guarantors entered into the first supplemental indenture to the Unsecured Notes Base Indenture, dated as of November 1, 2025 (the "Unsecured Notes First Supplemental Indenture"), pursuant to which the U.S. Guarantors became party to the Unsecured Notes Indenture (as defined below) as guarantors and jointly and severally and unconditionally guaranteed all of Qnity's obligations under the Unsecured Notes and the Unsecured Notes Indenture on a senior unsecured basis on the terms and conditions set forth in the Unsecured Notes Indenture; (ii) Qnity, the Unsecured Notes Trustee and each of the Foreign Guarantors entered into the second supplemental indenture to the Unsecured Notes Base Indenture, dated as of November 2, 2025 (the "Unsecured Notes Second Supplemental Indenture", and collectively with the Unsecured Notes Base Indenture and the Unsecured Notes First Supplemental Indenture, the "Unsecured Notes Indenture"), pursuant to which the Foreign Guarantors became party to the Unsecured Notes Indenture as guarantors and jointly and severally and unconditionally guaranteed all of Qnity's obligations under the Unsecured Notes and the Unsecured Notes Indenture on a senior unsecured basis on the terms and conditions set forth in the Unsecured Notes Indenture.

At any time prior to August 15, 2028, Qnity may redeem some or all of the Unsecured Notes at a price equal to 100% of the principal amount thereof to be redeemed, plus a "make-whole" premium, plus accrued and unpaid interest, if any, to, but not including, the redemption date. In addition, Qnity may redeem some or all of the Unsecured Notes at any time on or after August 15, 2028 at specified prices, plus accrued and unpaid interest, if any, to, but not including, the redemption date. Qnity may also redeem up to 40% of the aggregate principal amount of the Unsecured Notes at any time on or prior to August 15, 2028 using the net proceeds from certain equity offerings at 106.250%, plus accrued and unpaid interest, if any, to, but not including, the redemption date. If Qnity experiences certain kinds of changes in control, Qnity must offer to repurchase the Unsecured Notes at a price equal to 101% of the principal amount of the Unsecured Notes, plus accrued and unpaid interest, if any, to, but not including, the repurchase date.

The Unsecured Notes Indenture includes certain covenants relating to debt incurrence, liens, restricted payments, asset sales, transactions with affiliates, changes in control, and mergers or sales of all or substantially all of Qnity's assets. The Unsecured Notes Indenture provides for customary events of default (subject, in certain cases, to customary grace periods), which include nonpayment on the Unsecured Notes, breach of covenants in the Unsecured Notes Indenture, payment defaults or acceleration of other indebtedness over a specified threshold, failure to pay certain judgments over a specified threshold and certain events of bankruptcy and insolvency. Generally, if an event of default occurs, the Unsecured Notes Trustee or holders of at least 30% of the aggregate principal amount of all then outstanding Unsecured Notes may declare the principal, premium, if any, interest and any other monetary obligations on all the then outstanding Unsecured Notes to be due and payable immediately.

The foregoing description of the Notes does not purport to be complete and is subject to, and qualified in its entirety by reference to, the full text of the Secured Notes Base Indenture (including the form of Note contained therein), the Secured Notes First Supplemental Indenture, the Secured Notes Second Supplemental Indenture, the Unsecured Notes Base Indenture (including the form of Note contained therein), the Unsecured Notes First Supplemental Indenture and the Unsecured Notes Second Supplemental Indenture, which are filed as Exhibit 4.1, Exhibit 4.2, Exhibit 4.3, Exhibit 4.4, Exhibit 4.5 and Exhibit 4.6, respectively, hereto and are incorporated by reference herein.

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

The information set forth above under Item 1.01 under the headings “Credit Agreement” and “Qnity Notes Offering” is incorporated by reference herein.

**Item 3.03 Material Modifications to Rights of Security Holders.**

The information set forth below under Item 5.03 is incorporated by reference herein.

**Item 5.01 Changes in Control of Registrant.**

Immediately prior to the Separation, the Company was a wholly owned subsidiary of DuPont. As of the Effective Time, the Company became an independent, publicly traded company, and DuPont has no ownership interest in the Company. The description of the Separation included under Item 1.01 of this Current Report on Form 8-K is incorporated by reference into this Item 5.01 in its entirety.

**Item 5.02 Departure of Directors and Certain Officers; Election of Directors; Appointment of Certain Officers; Compensatory Arrangements of Certain Officers.**

***Appointment and Resignation of Directors***

On November 1, 2025, the size of the board of directors of the Company (the “Board”) was expanded to ten (10) members. Effective as of October 27, 2025, Steven M. Sterin was appointed to the Board. Effective as of November 1, 2025, each of Mark A. Blinn, Shumeet Banerji, Terrence R. Curtin, Karin De Bondt, Byron Green, Kristina M. Johnson, Anne Noonan and Yi Hyon Paik was appointed to the Board to fill the vacancies created by previous resignations and the expansion of the size of the Board. Following the Distribution, Jon D. Kemp, who was elected to the Board prior to the Distribution, and Steven M. Sterin will continue to serve as directors of the Company. Effective as of November 1, 2025, Mark A. Blinn was appointed to serve as non-executive Chairperson of the Board.

Biographical information for each member of the Board can be found in the Information Statement under the section entitled “Management—Board of Directors Following the Spin-Off”, which section is incorporated by reference into this Item 5.02.

Effective as of November 1, 2025, the Committees of the Board were comprised of the following members:

| <b>Committee</b>                    | <b>Members</b>                                                         |
|-------------------------------------|------------------------------------------------------------------------|
| Audit Committee                     | Steven M. Sterin (Chairperson)<br>Terrence R. Curtin<br>Karin De Bondt |
| People and Compensation Committee   | Anne Noonan (Chairperson)<br>Byron Green<br>Kristina M. Johnson        |
| Nomination and Governance Committee | Mark A. Blinn (Chairperson)<br>Shumeet Banerji<br>Yi Hyon Paik         |

Each of the non-employee directors of the Company, including the non-executive Chairperson, will receive compensation for his or her service as a director or committee member, including any additional compensation for services as chairperson of the Board or any committee, which will be determined by the Board following the Separation and the Distribution.

There are no arrangements or understandings between any of the individuals listed above and any other person pursuant to which such individuals were selected as directors. There are no transactions involving any of the individuals listed above that would be required to be reported under Item 404(a) of Regulation S-K.

#### ***Appointment of Officer***

In connection with the Separation, Michael Goss was appointed as the Company's Vice President, Controller and principal accounting officer, effective as of the Effective Time. Mr. Goss, age 50, served as Vice President, Controller and principal accounting officer of DuPont from December 2018 until the Effective Time, and held other positions within the accounting department of DuPont and its former affiliates since 2012. Prior to such time, Mr. Goss spent fourteen (14) years in public accounting at Ernst & Young.

Mr. Goss has no family relationships with any director, executive officer or person nominated or chosen by the Company to become a director or executive officer of the Company. Mr. Goss is not a party to any transaction required to be disclosed pursuant to Item 404(a) of Regulation S-K. There are no arrangements or understandings between Mr. Goss and any other person or the Company pursuant to which Mr. Goss was appointed to serve in his role.

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

Effective as of 11:59 p.m. on October 31, 2025, the Company filed a certificate of designation (the "Certificate of Designation") with the Secretary of State of the State of Delaware, which designated Series A Preferred Stock, par value \$1,500,000 per share (the "Series A Preferred Stock"), of the Company and established the voting powers, designations, preferences and relative, participating, optional and other special rights, and qualifications, limitations and restrictions thereof, of such Series A Preferred Stock as set forth in the Certificate of Designation. One (1) share of Series A Preferred Stock was authorized, issued and outstanding as of the Effective Time, and such share is held by the Trust (as defined by the Information Statement). A description of the material provisions of the Certificate of Designation can be found in the Information Statement under the section entitled "Description of Our Capital Stock", which description is incorporated by reference into this Item 5.03. The description set forth under this Item 5.03 is qualified in its entirety by reference to the full text of the Certificate of Designation, which is attached hereto as Exhibit 3.1 and incorporated by reference herein.

Effective as of 12:00 a.m. on November 1, 2025, the certificate of incorporation of the Company was further amended and restated in its entirety (the "Second Amended and Restated Certificate of Incorporation") and the bylaws of the Company were amended and restated in their entirety (the "Amended and Restated Bylaws"). A description of the material provisions of the Second Amended and Restated Certificate of Incorporation and the Amended and Restated Bylaws can be found in the Information Statement under the section entitled "Description of Our Capital Stock", which description is incorporated by reference into this Item 5.03. The description set forth under this Item 5.03 is qualified in its entirety by reference to the full text of the Amended and Restated Certificate of Incorporation and the Amended and Restated Bylaws, which are attached hereto as Exhibits 3.2 and 3.3, respectively, and incorporated by reference herein.

#### **Item 5.05 Amendment to the Registrant's Code of Ethics, or Waiver of a Provision of the Code of Ethics.**

Effective as of the Effective Time, in connection with the Separation, the Board adopted a Code of Conduct for all officers and employees of the Company and a Code of Financial Ethics applicable to Qnity's principal executive officers, principal financial officers, principal accounting officers or controllers, or persons performing similar functions. A description of the Code of Conduct and the Code of Financial Ethics can be found in the Information Statement under the section entitled "Codes of Conduct and Financial Ethics", which description is incorporated by reference into this Item 5.03. A copy of each code is available on the Corporate Governance section of the Company's website at [ir.qnityelectronics.com/corporate-governance/governance-documents](http://ir.qnityelectronics.com/corporate-governance/governance-documents). The information on Qnity's website does not constitute part of this current report and is not incorporated by reference.

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**Item 8.01 Other Events.****Press Release**

On November 3, 2025, Qnity issued a press release announcing the completion of the Separation and the Distribution and the start of the Company's operations as an independent company. A copy of the press release is attached hereto as Exhibit 99.1.

**Corporate Policies**

In connection with the Separation, effective as of the Effective Time, the Board adopted Corporate Governance Guidelines and a Code of Conduct applicable to the Board. Copies of these policies are available on the Corporate Governance section of the Company's website at [ir.qnityelectronics.com/corporate-governance/governance-documents](http://ir.qnityelectronics.com/corporate-governance/governance-documents). The information on Qnity's website does not constitute part of this current report and is not incorporated by reference.

**Item 9.01 Financial Statements and Exhibits.****(d) Exhibits****Exhibit Number**

|       |                                                                                                                                                                                                                                                                                                                                                                                                             |
|-------|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| 2.1*  | <a href="#"><u>Separation and Distribution Agreement, effective as of November 1, 2025, by and between DuPont de Nemours, Inc. and Qnity Electronics, Inc.</u></a>                                                                                                                                                                                                                                          |
| 3.1   | <a href="#"><u>Certificate of Designation of Qnity Electronics, Inc. (included in Exhibit 3.2)</u></a>                                                                                                                                                                                                                                                                                                      |
| 3.2   | <a href="#"><u>Amended and Restated Certificate of Incorporation of Qnity Electronics, Inc.</u></a>                                                                                                                                                                                                                                                                                                         |
| 3.3   | <a href="#"><u>Amended and Restated Bylaws of Qnity Electronics, Inc.</u></a>                                                                                                                                                                                                                                                                                                                               |
| 4.1   | <a href="#"><u>Indenture, dated as of August 15, 2025, by and between Qnity Electronics, Inc. and U.S. Bank Trust Company, National Association, as trustee and notes collateral agent (incorporated by reference to Exhibit 10.7 to Amendment No. 4 to Qnity Electronics, Inc.'s registration statement on Form 10, filed with the U.S. Securities and Exchange Commission on September 29, 2025).</u></a> |
| 4.2   | <a href="#"><u>First Supplemental Indenture, dated as of November 1, 2025, by and among Qnity Electronics, Inc., the U.S. Guarantors and U.S. Bank Trust Company, National Association, as trustee and notes collateral agent.</u></a>                                                                                                                                                                      |
| 4.3   | <a href="#"><u>Second Supplemental Indenture, dated as of November 2, 2025, by and among Qnity Electronics, Inc., the Foreign Guarantors and U.S. Bank Trust Company, National Association, as trustee and notes collateral agent.</u></a>                                                                                                                                                                  |
| 4.4   | <a href="#"><u>Indenture, dated as of August 15, 2025, by and between Qnity Electronics, Inc. and U.S. Bank Trust Company, National Association, as trustee (incorporated by reference to Exhibit 10.8 to Amendment No. 4 to Qnity Electronics, Inc.'s registration statement on Form 10, filed with the U.S. Securities and Exchange Commission on September 29, 2025).</u></a>                            |
| 4.5   | <a href="#"><u>First Supplemental Indenture, dated as of November 1, 2025, by and among Qnity Electronics, Inc., the U.S. Guarantors and U.S. Bank Trust Company, National Association, as trustee.</u></a>                                                                                                                                                                                                 |
| 4.6   | <a href="#"><u>Second Supplemental Indenture, dated as of November 2, 2025, by and among Qnity Electronics, Inc., the Foreign Guarantors and U.S. Bank Trust Company, National Association, as trustee.</u></a>                                                                                                                                                                                             |
| 10.1* | <a href="#"><u>Tax Matters Agreement, effective as of November 1, 2025, by and between DuPont de Nemours, Inc. and Qnity Electronics, Inc.</u></a>                                                                                                                                                                                                                                                          |
| 10.2* | <a href="#"><u>Employee Matters Agreement, effective as of November 1, 2025, by and between DuPont de Nemours, Inc. and Qnity Electronics, Inc.</u></a>                                                                                                                                                                                                                                                     |
| 10.3* | <a href="#"><u>Transition Services Agreement, effective as of November 1, 2025, by and between DuPont Specialty Products USA, LLC and EKC Advanced Electronics USA, LLC.</u></a>                                                                                                                                                                                                                            |
| 10.4* | <a href="#"><u>Intellectual Property Cross-License Agreement, effective as of November 1, 2025, by and among DuPont de Nemours, Inc., Qnity Electronics, Inc. and certain of their respective affiliates.</u></a>                                                                                                                                                                                           |
| 10.5* | <a href="#"><u>Legacy Liabilities Assignment Agreement, effective as of November 1, 2025, by and between DuPont de Nemours, Inc. and Qnity Electronics, Inc.</u></a>                                                                                                                                                                                                                                        |
| 10.6* | <a href="#"><u>Credit Agreement, effective as of October 31, 2025, by and among Qnity Electronics, Inc., JPMorgan Chase Bank, N.A. and the other parties thereto.</u></a>                                                                                                                                                                                                                                   |
| 99.1  | <a href="#"><u>Press Release of Qnity Electronics, Inc., dated November 3, 2025.</u></a>                                                                                                                                                                                                                                                                                                                    |
| 104   | Cover Page Interactive Data File (embedded within the Inline XBRL document).                                                                                                                                                                                                                                                                                                                                |

\* Certain schedules or similar attachments have been omitted pursuant to Item 601(a)(5) of Regulation S-K. The registrant agrees to furnish supplemental copies of any of the omitted schedules or attachments upon request by the SEC.

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**Cautionary Statement Regarding Forward Looking Statements**

Certain statements in this Current Report on Form 8-K may be considered forward-looking statements, within the meaning of the federal securities laws, including Section 27A of the Securities Act of 1933, as amended, and Section 21E of the Securities Exchange Act of 1934, as amended. In this context, forward-looking statements often address expected future business and financial performance and financial condition, and often contain words such as “expect”, “anticipate”, “intend”, “plan”, “believe”, “seek”, “see”, “will”, “would”, “target”, “outlook”, “stabilization”, “confident”, “preliminary”, “initial”, “continue”, “may”, “could”, “project”, “estimate”, “forecast” and similar expressions and variations or negatives of these words, among others, as well as other words or expressions referencing future events, conditions or circumstances. All statements, other than statements of historical fact, are forward-looking statements, including statements that describe or relate to Qnity’s plans, goals, intentions, strategies, financial estimates, Qnity’s expectations regarding the spin-off, and statements that do not relate to historical or current fact. Forward-looking statements are based on our current beliefs, expectations and assumptions, which may not prove to be accurate, and involve a number of known and unknown risks and uncertainties, many of which are out of Qnity’s control, that could cause actual results to differ materially from those expressed in any forward-looking statements.

Forward-looking statements are not guarantees of future performance. Some of the important factors that could cause Qnity’s actual outcomes and results to differ materially from those projected in any such forward-looking statements include, but are not limited to: the ability to realize the intended benefits of the Separation and the Distribution, including achievement of the intended tax treatment; contractual allocation to, and assumption by, DuPont of certain liabilities; the possibility of disputes, litigation or unanticipated costs in connection with the Separation and the Distribution; and Qnity’s success in achieving its intended post-Separation capital structure; the failure to realize expected benefits and effectively manage and achieve anticipated synergies and operational efficiencies in connection with the Separation and completed and future, if any, divestitures, mergers, acquisitions, and other portfolio management, productivity and infrastructure actions; and the other risk factors discussed in the Information Statement.

Unlisted factors may present significant additional obstacles to the realization of forward-looking statements. Additional information concerning these and other factors can be found in Qnity’s filings with the SEC, including the Information Statement. Consequences of material differences in results as compared with those anticipated in the forward-looking statements could include, among other things, business or supply chain disruption, operational problems, financial loss, legal liability to third parties and similar risks, any of which could have a material adverse effect on Qnity’s financial condition, results of operations, credit rating or liquidity. Undue reliance should not be placed on forward-looking statements, which speak only as of the date they are made. Qnity does not undertake any obligation to publicly update or revise any forward-looking statements, whether as a result of new information, future developments or otherwise, should circumstances change, except as otherwise required by securities and other applicable laws.

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**SIGNATURES**

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.

**QNITY ELECTRONICS, INC.**

By: /s/ Peter W. Hennessey

Name: Peter W. Hennessey

Title: General Counsel

Date: November 3, 2025

**SEPARATION AND DISTRIBUTION AGREEMENT**

**by and between**

**QNITY ELECTRONICS, INC.**

**and**

**DUPONT DE NEMOURS, INC.**

**Dated as of November 1, 2025**



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## TABLE OF CONTENTS

### Page

### ARTICLE I

#### DEFINITIONS AND INTERPRETATION

|             |                            |    |
|-------------|----------------------------|----|
| Section 1.1 | General                    | 2  |
| Section 1.2 | References; Interpretation | 44 |
| Section 1.3 | Effective Time; Suspension | 44 |

### ARTICLE II

#### THE SEPARATION

|              |                                                                                                                  |    |
|--------------|------------------------------------------------------------------------------------------------------------------|----|
| Section 2.1  | General                                                                                                          | 45 |
| Section 2.2  | Transfer of Assets; Assumption and Satisfaction of Liabilities                                                   | 45 |
| Section 2.3  | Intergroup Accounts                                                                                              | 50 |
| Section 2.4  | Limitation of Liability; Intergroup Contracts                                                                    | 50 |
| Section 2.5  | Transfers Not Effectuated on or Prior to the Effective Time; Transfers Deemed Effective as of the Effective Time | 51 |
| Section 2.6  | Wrong Pockets; Mail & Other Communications; Payments                                                             | 54 |
| Section 2.7  | Conveyancing and Assumption Instruments                                                                          | 56 |
| Section 2.8  | Further Assurances                                                                                               | 57 |
| Section 2.9  | Novation of Liabilities                                                                                          | 57 |
| Section 2.10 | Guarantees                                                                                                       | 59 |
| Section 2.11 | Bank Accounts; Cash Balances                                                                                     | 61 |
| Section 2.12 | Payment of Specified Transaction Expenses                                                                        | 62 |
| Section 2.13 | Disclaimer of Representations and Warranties                                                                     | 62 |

### ARTICLE III

#### CERTAIN ACTIONS AT OR PRIOR TO THE DISTRIBUTION

|             |                                                                  |    |
|-------------|------------------------------------------------------------------|----|
| Section 3.1 | Certificate of Incorporation; Certificate of Designation; Bylaws | 63 |
| Section 3.2 | Series A Preferred Stock                                         | 63 |
| Section 3.3 | Directors                                                        | 63 |
| Section 3.4 | Officers                                                         | 63 |
| Section 3.5 | Resignations                                                     | 63 |
| Section 3.6 | Ancillary Agreements                                             | 63 |

---

ARTICLE IV  
THE DISTRIBUTION

|             |                               |    |
|-------------|-------------------------------|----|
| Section 4.1 | Stock Dividends to RemainCo   | 64 |
| Section 4.2 | Fractional Shares             | 64 |
| Section 4.3 | Sole Discretion of RemainCo   | 65 |
| Section 4.4 | Conditions to Distribution    | 65 |
| Section 4.5 | Effectiveness of Distribution | 67 |

ARTICLE V  
CERTAIN COVENANTS

|             |                                                                               |    |
|-------------|-------------------------------------------------------------------------------|----|
| Section 5.1 | Auditors and Audits; Annual and Quarterly Financial Statements and Accounting | 67 |
| Section 5.2 | Separation of Information                                                     | 70 |
| Section 5.3 | Nonpublic Information                                                         | 72 |
| Section 5.4 | Cooperation                                                                   | 72 |
| Section 5.5 | Permits and Financial Assurance                                               | 73 |
| Section 5.6 | Inventor Remuneration                                                         | 74 |
| Section 5.7 | Certain Covenants                                                             | 75 |

ARTICLE VI  
PRIOR TRANSACTION AGREEMENTS

|             |                                                                                   |    |
|-------------|-----------------------------------------------------------------------------------|----|
| Section 6.1 | No Assignment                                                                     | 75 |
| Section 6.2 | ElectronicsCo Enforcement                                                         | 75 |
| Section 6.3 | ElectronicsCo Obligations                                                         | 78 |
| Section 6.4 | Access to Accessible DWDP/Neptune Insurance Policies for Pre-Distribution Matters | 78 |

ARTICLE VII  
LEGACY LIABILITIES

|             |                                                   |    |
|-------------|---------------------------------------------------|----|
| Section 7.1 | Legacy Liabilities                                | 81 |
| Section 7.2 | Management of Legacy Liabilities                  | 82 |
| Section 7.3 | Access to Information; Certain Services; Expenses | 84 |
| Section 7.4 | Notice Relating to Legacy Liabilities             | 85 |
| Section 7.5 | Cooperation with Governmental Entity              | 85 |
| Section 7.6 | Default                                           | 85 |
| Section 7.7 | Conflict                                          | 85 |

ARTICLE VIII  
INDEMNIFICATION

|             |                                    |    |
|-------------|------------------------------------|----|
| Section 8.1 | Release of Pre-Distribution Claims | 86 |
| Section 8.2 | Indemnification by RemainCo        | 88 |
| Section 8.3 | Indemnification by ElectronicsCo   | 88 |
| Section 8.4 | Procedures for Third Party Claims  | 88 |

|              |                                                                         |     |
|--------------|-------------------------------------------------------------------------|-----|
| Section 8.5  | Procedures for Direct Claims                                            | 91  |
| Section 8.6  | Cooperation in Defense and Settlement                                   | 92  |
| Section 8.7  | Indemnification Payments                                                | 93  |
| Section 8.8  | Indemnification Obligations Net of Insurance Proceeds and Other Amounts | 94  |
| Section 8.9  | Additional Matters; Survival of Indemnities                             | 95  |
| Section 8.10 | Environmental Matters                                                   | 96  |
| Section 8.11 | Closure of Discontinued Operations                                      | 101 |

#### ARTICLE IX

#### CONFIDENTIALITY; ACCESS TO INFORMATION

|              |                                   |     |
|--------------|-----------------------------------|-----|
| Section 9.1  | Preservation of Corporate Records | 102 |
| Section 9.2  | Provision of Corporate Records    | 103 |
| Section 9.3  | Disposition of Information        | 106 |
| Section 9.4  | Witness Services                  | 107 |
| Section 9.5  | Reimbursement; Other Matters      | 107 |
| Section 9.6  | Confidentiality; Non-Use          | 107 |
| Section 9.7  | Privileged Matters                | 110 |
| Section 9.8  | Conflicts Waiver                  | 113 |
| Section 9.9  | Ownership of Information          | 114 |
| Section 9.10 | Personal Data                     | 114 |

#### ARTICLE X

#### DISPUTE RESOLUTION

|              |                                       |     |
|--------------|---------------------------------------|-----|
| Section 10.1 | Negotiation and Arbitration           | 115 |
| Section 10.2 | Continuity of Service and Performance | 119 |

#### ARTICLE XI

#### INSURANCE

|              |                                                           |     |
|--------------|-----------------------------------------------------------|-----|
| Section 11.1 | Access to Insurance Policies for Pre-Distribution Matters | 119 |
| Section 11.2 | Cyber Insurance                                           | 123 |
| Section 11.3 | Fiduciary Liability Insurance                             | 123 |
| Section 11.4 | Directors and Officers Indemnification and Insurance      | 124 |
| Section 11.5 | Insurance for Post-Distribution Matters                   | 124 |
| Section 11.6 | No Assignment of Entire Insurance Policies                | 124 |
| Section 11.7 | Agreement for Waiver of Conflict and Shared Defense       | 125 |

---

ARTICLE XII  
MISCELLANEOUS

|               |                                          |     |
|---------------|------------------------------------------|-----|
| Section 12.1  | Complete Agreement; Construction         | 125 |
| Section 12.2  | Ancillary Agreements                     | 125 |
| Section 12.3  | Counterparts                             | 126 |
| Section 12.4  | Survival of Agreements                   | 126 |
| Section 12.5  | Expenses                                 | 126 |
| Section 12.6  | Notices                                  | 126 |
| Section 12.7  | Waivers                                  | 127 |
| Section 12.8  | Amendments                               | 128 |
| Section 12.9  | Assignment                               | 128 |
| Section 12.10 | Successors and Assigns                   | 128 |
| Section 12.11 | Certain Termination and Amendment Rights | 128 |
| Section 12.12 | Payment Terms                            | 128 |
| Section 12.13 | No Circumvention                         | 129 |
| Section 12.14 | Subsidiaries                             | 130 |
| Section 12.15 | Third Party Beneficiaries                | 130 |
| Section 12.16 | Title and Headings                       | 130 |
| Section 12.17 | Exhibits and Schedules                   | 130 |
| Section 12.18 | Governing Law                            | 130 |
| Section 12.19 | Specific Performance                     | 131 |
| Section 12.20 | Severability                             | 131 |
| Section 12.21 | No Duplication; No Double Recovery       | 131 |
| Section 12.22 | Public Announcements                     | 131 |
| Section 12.23 | Tax Treatment of Payments                | 132 |

**Exhibits**

|           |                                              |
|-----------|----------------------------------------------|
| Exhibit A | Industrial Real Property Transfer Provisions |
|-----------|----------------------------------------------|

---

## INDEX OF DEFINED TERMS

|                                                                  |        |
|------------------------------------------------------------------|--------|
| Acceptable Alternative Arrangement                               | 2, 47  |
| Accessible DWD/Neptune Insurance Policy                          | 2      |
| Action                                                           | 2      |
| Affiliate                                                        | 2      |
| Agent                                                            | 2      |
| Agreement                                                        | 1, 2   |
| Ancillary Agreements                                             | 2      |
| Applicable ElectronicsCo Percentage                              | 3      |
| Applicable Percentage                                            | 3      |
| Applicable RemainCo Percentage                                   | 3      |
| Appropriate Remediation Standard                                 | 3, 98  |
| Arbitral Tribunal                                                | 3, 116 |
| Assets                                                           | 3      |
| Assume                                                           | 3, 46  |
| Assumed Tax Rate                                                 | 3      |
| Audited Party                                                    | 3, 68  |
| Board                                                            | 1, 3   |
| Business                                                         | 3      |
| Business Day                                                     | 4      |
| Cap                                                              | 4      |
| Cash and Cash Equivalents                                        | 4      |
| Code                                                             | 1, 4   |
| Collective Benefit Services                                      | 4, 110 |
| Commercially Reasonable Expenditures                             | 4, 100 |
| Commission                                                       | 4      |
| Confidential Information                                         | 4      |
| Consents                                                         | 4      |
| Contract                                                         | 4      |
| Contract Manufacturing Agreements                                | 5      |
| Controller                                                       | 5      |
| Conveyancing and Assumption Instruments                          | 5      |
| Copyrights                                                       | 5      |
| Corporate Trade Payables                                         | 5, 18  |
| Corrective Action Performing Party                               | 5, 100 |
| Corteva                                                          | 5      |
| Corteva Letter Agreement                                         | 5      |
| Credit Support Instruments                                       | 5      |
| Damages                                                          | 5      |
| Data Protection Laws                                             | 5      |
| Data Subject                                                     | 6      |
| Decision on Interim Relief                                       | 6, 118 |
| Demolition Party                                                 | 6, 101 |
| Designated Ancillary Agreements                                  | 6      |
| Discontinued and/or Divested Operations and Business Liabilities | 6      |
| Discontinued and/or Divested Operations and Businesses           | 6      |

|                                                                                |          |
|--------------------------------------------------------------------------------|----------|
| Discontinued Buildings and Related Improvements                                | 7, 101   |
| Discontinued Closely Linked Product                                            | 7        |
| Dispute                                                                        | 7, 115   |
| Dispute Notice                                                                 | 7        |
| Distribution                                                                   | 7        |
| Distribution Date                                                              | 7        |
| Distribution Disclosure Documents                                              | 8        |
| Distribution Record Date                                                       | 8        |
| DWDP EMA                                                                       | 8        |
| DWDP Legacy Liabilities                                                        | 8        |
| DWDP SDA                                                                       | 8        |
| DWDP TMA                                                                       | 8        |
| Effective Time                                                                 | 8        |
| ElectronicsCo                                                                  | 1, 8, 44 |
| ElectronicsCo Accounts                                                         | 8, 61    |
| ElectronicsCo Assets                                                           | 8        |
| ElectronicsCo Business                                                         | 13       |
| ElectronicsCo Cash Distribution                                                | 13       |
| ElectronicsCo Common Stock                                                     | 1, 13    |
| ElectronicsCo Contracts                                                        | 13       |
| ElectronicsCo CSIs                                                             | 14, 60   |
| ElectronicsCo Designated Liabilities                                           | 16       |
| ElectronicsCo Discontinued and/or Divested Operations and Business Liabilities | 14       |
| ElectronicsCo Environmental Liabilities                                        | 14       |
| ElectronicsCo Financing Arrangements                                           | 14       |
| ElectronicsCo Form 10                                                          | 14       |
| ElectronicsCo Group                                                            | 14       |
| ElectronicsCo Indemnitees                                                      | 14       |
| ElectronicsCo Information Statement                                            | 14       |
| ElectronicsCo Inventory                                                        | 12, 14   |
| ElectronicsCo Liabilities                                                      | 15       |
| ElectronicsCo Real Property                                                    | 12, 19   |
| ElectronicsCo Series A Preferred Stock                                         | 19       |
| ElectronicsCo Shared Contracts                                                 | 19       |
| ElectronicsCo Specified Corporate Contracts                                    | 14       |
| ElectronicsCo Specified Leased Real Property                                   | 9, 19    |
| ElectronicsCo Specified Owned Real Property                                    | 9, 19    |
| ElectronicsCo Specified Prior Transaction Agreements                           | 19       |
| ElectronicsCo Spin Contribution                                                | 19       |
| ElectronicsCo Vested Prior Transaction Rights                                  | 19       |
| Emergency Arbitrator                                                           | 19       |
| Employee Matters Agreement                                                     | 19       |
| Employee Records                                                               | 19       |
| Employee Related Liabilities                                                   | 25       |
| Engineering Models and Databases                                               | 19       |
| Environmental Laws                                                             | 19       |

|                                                   |         |
|---------------------------------------------------|---------|
| Environmental Liabilities                         | 20      |
| Environmental Permit                              | 20      |
| Exchange Act                                      | 20      |
| Experimental Station                              | 20      |
| Experimental Station Cost Sharing Agreement       | 20      |
| Final Determination                               | 20      |
| Financing Arrangements                            | 20      |
| Financing Disclosure Documents                    | 20      |
| Force Majeure Event                               | 20      |
| GAAP                                              | 21      |
| GDPR                                              | 6, 21   |
| General Dispute Notice                            | 21, 115 |
| General Negotiation Period                        | 21, 115 |
| Governmental Entity                               | 21      |
| Ground Leases                                     | 21      |
| Group                                             | 21      |
| Guaranty Release                                  | 21, 59  |
| Hazardous Substances                              | 21      |
| House Marks License Agreement                     | 21      |
| ICDR                                              | 21, 116 |
| Indebtedness                                      | 21      |
| Indemnifiable Loss                                | 22      |
| Indemnifiable Losses                              | 22      |
| Indemnification Notice                            | 22      |
| Indemnifying Party                                | 22, 88  |
| Indemnitee                                        | 22, 88  |
| Indemnity Payment                                 | 22, 94  |
| Industrial Purpose                                | 22      |
| Industrial Real Property Restrictions             | 22, 56  |
| Information                                       | 22      |
| Insurance Policies                                | 23      |
| Insurance Proceeds                                | 23      |
| Insurer                                           | 23      |
| Intellectual Property                             | 23      |
| Intentionally Delayed ElectronicsCo Assets        | 10, 23  |
| Intergroup Accounts                               | 23, 50  |
| Intergroup Leases                                 | 23      |
| Interim Relief                                    | 23, 117 |
| Internal Control Audit and Management Assessments | 23, 68  |
| Internal Reorganization                           | 24      |
| Inventor Remuneration                             | 24      |
| IP Cross-License Agreement                        | 24      |
| IT Assets                                         | 24      |
| Know-How                                          | 24      |
| Law                                               | 24      |
| Legacy Liabilities                                | 24      |

|                                              |            |
|----------------------------------------------|------------|
| Legacy PFAS Liabilities                      | 25         |
| Liabilities                                  | 25         |
| Liable Party                                 | 25, 58     |
| Litigation Hold                              | 25, 102    |
| LL Paying Party                              | 25         |
| Mixed Contract                               | 25         |
| MOU                                          | 26         |
| Negotiation Period                           | 26         |
| Neptune SDA                                  | 26         |
| New York Court                               | 26, 118    |
| Non-Assumable Third Party Claims             | 26, 89     |
| Non-Paying Party                             | 26         |
| Non-Performing Impacted Party                | 26, 97     |
| Non-Performing Site Controller               | 26, 97     |
| Non-Shared Contract                          | 26         |
| Non-Transferred Permit                       | 26, 73     |
| Notice Recipient                             | 26, 48     |
| Notifying Party                              | 26, 48     |
| NYSE                                         | 26         |
| Off-Site Environmental Liabilities           | 26         |
| Other Party                                  | 26, 57     |
| Other Party's Auditors                       | 27, 68     |
| Other Surviving Intergroup Accounts          | 27, 50     |
| Partial Assignment                           | 27, 46     |
| Parties                                      | 1, 27      |
| Party                                        | 1, 27, 128 |
| Patent                                       | 27         |
| Performing Party                             | 27, 97     |
| Permit Transferee                            | 27         |
| Permit Transferor                            | 27         |
| Permits                                      | 27         |
| Person                                       | 27         |
| Personal Data                                | 27         |
| Personal Data Breach                         | 27         |
| PFAS                                         | 27         |
| Plant Operating Documents                    | 28         |
| Policies                                     | 28         |
| Prior Transaction Agreement Notice Recipient | 28, 77     |
| Prior Transaction Agreement Notifying Party  | 28, 77     |
| Prior Transaction Agreements                 | 28         |
| Privilege                                    | 28, 110    |
| Privilege Waiver Negotiation Period          | 28, 112    |
| Privilege Waiver Notice                      | 28, 112    |
| Privilege Waiver Objection Notice            | 28, 111    |
| Privilege Waiver Request                     | 28, 111    |
| Privileged Information                       | 28, 110    |



|                                                                           |         |
|---------------------------------------------------------------------------|---------|
| Pro Forma Operating EBITDA                                                | 29      |
| Processing                                                                | 29      |
| Product Supply Agreements                                                 | 29      |
| Public Reports                                                            | 29, 69  |
| Raw Materials Supply Agreements                                           | 29      |
| Records                                                                   | 29      |
| Registration Data                                                         | 29      |
| Registrations                                                             | 29      |
| Regulatory Matters Agreement                                              | 29      |
| Related                                                                   | 29      |
| Release                                                                   | 29      |
| Relevant Site Party                                                       | 30      |
| RemainCo                                                                  | 1, 30   |
| RemainCo Accounts                                                         | 30, 61  |
| RemainCo Assets                                                           | 30      |
| RemainCo Business                                                         | 35      |
| RemainCo Common Stock                                                     | 35      |
| RemainCo Contracts                                                        | 35      |
| RemainCo Counsel                                                          | 36, 113 |
| RemainCo CSIs                                                             | 36, 60  |
| RemainCo Designated Liabilities                                           | 37      |
| RemainCo Discontinued and/or Divested Operations and Business Liabilities | 36      |
| RemainCo Environmental Liabilities                                        | 36      |
| RemainCo Financing Arrangements                                           | 36      |
| RemainCo Group                                                            | 36      |
| RemainCo House Marks                                                      | 36      |
| RemainCo Indemnitees                                                      | 36      |
| RemainCo Inventory                                                        | 34, 36  |
| RemainCo Liabilities                                                      | 36      |
| RemainCo Real Property                                                    | 34      |
| RemainCo Shared Contracts                                                 | 40      |
| RemainCo Specified Corporate Contracts                                    | 36      |
| RemainCo Specified Leased Real Property                                   | 31      |
| RemainCo Specified Owned Real Property                                    | 30      |
| RemainCo Specified Prior Transaction Agreements                           | 40      |
| Response Action                                                           | 40, 96  |
| Rules                                                                     | 40, 116 |
| Security Interest                                                         | 40      |
| Severable Prior Transaction Agreements                                    | 40      |
| Shared Contract                                                           | 40      |
| Shared DuPont-Third Party Real Property                                   | 40      |
| Shared DuPont-Third Party Real Property Liabilities                       | 16, 40  |
| Shared Permit                                                             | 40, 74  |
| Shared Prior Transaction Agreements                                       | 40      |
| Site Services Agreements                                                  | 41      |
| Software                                                                  | 41      |

---

|                                                              |         |
|--------------------------------------------------------------|---------|
| Sole Benefit Services                                        | 41, 110 |
| Space Leases                                                 | 41      |
| Specified DuPont Shared Liabilities                          | 41      |
| Specified ElectronicsCo Assets                               | 10, 42  |
| Specified ElectronicsCo Liabilities                          | 17, 42  |
| Specified Environmental ElectronicsCo Designated Liabilities | 42      |
| Specified Environmental RemainCo Designated Liabilities      | 42      |
| Specified RemainCo Assets                                    | 31, 42  |
| Specified RemainCo Liabilities                               | 39, 42  |
| Specified Transaction Expenses                               | 42      |
| Specified Transaction Expenses Threshold                     | 42      |
| Subsidiary                                                   | 42      |
| Tax                                                          | 43      |
| Tax Assets                                                   | 43      |
| Tax Benefit Payment                                          | 43      |
| Tax Contest                                                  | 43      |
| Tax Matters Agreement                                        | 43      |
| Tax Return                                                   | 43      |
| Taxes                                                        | 43      |
| Taxing Authority                                             | 43      |
| Third Party Claim                                            | 43, 88  |
| Third Party Proceeds                                         | 43, 94  |
| TMODS License Agreement                                      | 43      |
| Trademarks                                                   | 43      |
| Transaction Expenses                                         | 43, 126 |
| Transfer                                                     | 43, 45  |
| Transfer Taxes                                               | 43      |
| Transferred                                                  | 43      |
| Transferred Industrial Real Property                         | 43, 56  |
| Transition Services Agreements                               | 43      |
| Trust                                                        | 29      |
| UK GDPR                                                      | 6, 44   |
| Umbrella Secrecy Agreement                                   | 44      |

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## SEPARATION AND DISTRIBUTION AGREEMENT

SEPARATION AND DISTRIBUTION AGREEMENT (this “Agreement”), dated as of November 1, 2025, by and between DuPont de Nemours, Inc., a Delaware corporation (“RemainCo”), and Qnity Electronics, Inc., a Delaware corporation (“ElectronicsCo”). Each of RemainCo and ElectronicsCo is sometimes referred to herein as a “Party”, and collectively, as the “Parties”.

### WITNESSETH:

**WHEREAS**, RemainCo, acting through its direct and indirect Subsidiaries, currently conducts (a) the ElectronicsCo Business and (b) the RemainCo Business;

**WHEREAS**, the Board of Directors of RemainCo (the “Board”) has determined that it is appropriate, desirable and in the best interests of RemainCo and its stockholders to separate RemainCo into two separate, publicly traded companies, one for each of (a) the ElectronicsCo Business, which shall be owned and conducted, directly or indirectly, by ElectronicsCo, and (b) the RemainCo Business, which shall be owned and conducted, directly or indirectly, by RemainCo;

**WHEREAS**, in order to effect such separation, the Board has determined that it is appropriate, desirable and in the best interests of RemainCo and its stockholders (a) to enter into a series of transactions whereby (i) RemainCo and/or one or more members of the RemainCo Group will, collectively, own all of the RemainCo Assets, assume (or retain) all of the RemainCo Liabilities and, except as provided in any Ancillary Agreement, operate the RemainCo Business, and (ii) ElectronicsCo and/or one or more members of the ElectronicsCo Group will, collectively, own all of the ElectronicsCo Assets, assume (or retain) all of the ElectronicsCo Liabilities and, except as provided in any Ancillary Agreement, operate the ElectronicsCo Business, and (b) for RemainCo to distribute to the holders of RemainCo Common Stock by way of a pro rata dividend (without consideration being paid by such stockholders) all of the then issued and outstanding shares of common stock, par value \$0.01 per share, of ElectronicsCo (the “ElectronicsCo Common Stock”);

**WHEREAS**, in order to effect such separation, the Board has determined that it is appropriate, desirable and in the best interests of RemainCo and its stockholders for RemainCo to undertake the Internal Reorganization and, in connection therewith, ElectronicsCo shall make the ElectronicsCo Cash Distribution;

**WHEREAS**, it is the intention of the Parties that the ElectronicsCo Spin Contribution and the Distribution, taken together, will qualify as a transaction that is tax-free for U.S. federal income tax purposes under Section 355 and Section 368(a)(1)(D) of the Internal Revenue Code of 1986, as amended (the “Code”); and

**WHEREAS**, each of RemainCo and ElectronicsCo has determined that it is necessary and desirable to agree to the principal corporate transactions required to effect the Internal Reorganization (to the extent not already effected prior to the date hereof), the ElectronicsCo Cash Distribution and the Distribution and to agree to other agreements that will govern certain other matters following the Effective Time.

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**NOW, THEREFORE**, in consideration of the foregoing and the mutual agreements, provisions and covenants contained in this Agreement, the Parties hereby agree as follows:

## **ARTICLE I**

### **DEFINITIONS AND INTERPRETATION**

Section 1.1 General. As used in this Agreement, the following terms shall have the following meanings:

- (1) “Acceptable Alternative Arrangement” shall have the meaning set forth in Section 2.2(d)(i).
- (2) “Accessible DWDP/Neptune Insurance Policy” shall mean all insurance policies, including any insurance policies issued by any captive insurer, for which access has been provided pursuant to Article XI of the DWDP SDA or Article X of the Neptune SDA, as applicable, subject to the terms and conditions set forth therein.
- (3) “Action” shall mean any demand, action, claim, cause of action, suit, countersuit, arbitration, inquiry, case, litigation, subpoena, proceeding or investigation (whether civil, criminal or administrative) by or before any court or grand jury, any Governmental Entity or any arbitration or mediation tribunal or authority.
- (4) “Affiliate” shall mean, when used with respect to a specified Person, a Person that directly or indirectly, through one or more intermediaries, controls, is controlled by, or is under common control with such specified Person. For the purposes of this definition, “control” (including the terms “controlled by” and “under common control with”), when used with respect to any specified Person shall mean the possession, directly or indirectly, of the power to direct or cause the direction of the management and policies of such Person, whether through the ownership of voting securities or other interests, by Contract or otherwise. It is expressly agreed that no Party or member of either Group shall be deemed to be an Affiliate of the other Party or member of such other Party’s Group solely by reason of having one or more directors in common or by reason of having been under common control of RemainCo or RemainCo’s stockholders prior to, or in case of ElectronicsCo’s stockholders, after the Effective Time.
- (5) “Agent” shall mean Computershare Trust Company, N.A.
- (6) “Agreement” shall have the meaning set forth in the preamble hereto.
- (7) “Ancillary Agreements” shall mean all of the written Contracts, instruments, assignments or other arrangements (other than this Agreement) entered into in connection with the transactions contemplated hereby, including the Tax Matters Agreement, Transition Services Agreements, Employee Matters Agreement, IP Cross-License Agreement, House Marks License Agreement, Regulatory Matters Agreement, TMODS License Agreement, Umbrella Secrecy Agreement, Product Supply Agreements, Raw Materials Supply Agreements, Contract

Manufacturing Agreements, Ground Leases, Space Leases, Site Services Agreements, Experimental Station Cost Sharing Agreement and agreements set forth on Schedule 1.1(7) and any other agreements to be entered into by and between any member of the ElectronicsCo Group and any member of the RemainCo Group, at, prior to or after the Distribution in connection with the Distribution, but shall exclude the Conveyancing and Assumption Instruments.

(8) “Applicable ElectronicsCo Percentage” shall mean that percentage equal to (a) the quotient of (i) the Pro Forma Operating EBITDA attributable to the ElectronicsCo Business and ElectronicsCo Assets (measured at the time of the Distribution, but prior to giving effect to the Distribution), divided by (ii) the Pro Forma Operating EBITDA (measured at the time of the Distribution, but prior to giving effect to the Distribution) of RemainCo, multiplied by (b) 100.

(9) “Applicable Percentage” of a particular Group shall mean the (a) Applicable ElectronicsCo Percentage or (b) Applicable RemainCo Percentage, as applicable.

(10) “Applicable RemainCo Percentage” shall mean that percentage equal to (a) 100%, minus (b) the Applicable ElectronicsCo Percentage.

(11) “Appropriate Remediation Standard” shall have the meaning set forth in Section 8.10(d).

(12) “Arbitral Tribunal” shall have the meaning set forth in Section 10.1(c)(i).

(13) “Assets” shall mean all right, title and ownership interests in and to all properties, claims, Contracts, businesses or assets (including goodwill), wherever located (including in the possession of vendors or other third parties or elsewhere), of every kind, character and description, whether real, personal or mixed, tangible or intangible, whether accrued, contingent or otherwise, in each case, whether or not recorded or reflected or required to be recorded or reflected on the books and records or financial statements of any Person. Except as otherwise specifically set forth herein or in the Tax Matters Agreement or the Employee Matters Agreement, the rights and obligations of the Parties with respect to (a) Taxes shall be governed by the Tax Matters Agreement and (b) any assets of the nature described in the preceding sentence of this definition that are allocated pursuant to the Employee Matters Agreement shall be governed by the Employee Matters Agreement, and, therefore, Taxes (including any Tax Assets) and such assets shall not be treated as Assets governed by this Agreement.

(14) “Assume” shall have the meaning set forth in Section 2.2(c).

(15) “Assumed Tax Rate” shall mean twenty-one percent (21%).

(16) “Audited Party” shall have the meaning set forth in Section 5.1(c).

(17) “Board” shall have the meaning set forth in the recitals hereto.

(18) “Business” shall mean (a) with respect to ElectronicsCo, the ElectronicsCo Business, or (b) with respect to RemainCo, the RemainCo Business.

(19) “Business Day” shall mean any day that is not a Saturday, a Sunday or any other day on which banks are required or authorized by Law to be closed in The City of New York.

(20) “Cap” shall have the meaning set forth in Section 7.2(c).

(21) “Cash and Cash Equivalents” shall mean (a) cash and (b) checks, certificates of deposit having a maturity of less than one year, money orders, marketable securities, money market funds, commercial paper, short-term instruments, funds in time and demand deposits or similar accounts, and any evidence of indebtedness issued or guaranteed by any Governmental Entity, minus the amount of any outbound checks, plus the amount of any deposits in transit.

(22) “Code” shall have the meaning set forth in the recitals hereto.

(23) “Collective Benefit Services” shall have the meaning set forth in Section 9.7(a).

(24) “Commercially Reasonable Expenditures” shall have the meaning set forth in Section 8.10(f)(ii).

(25) “Commission” shall mean the United States Securities and Exchange Commission.

(26) “Confidential Information” shall mean all non-public, confidential or proprietary Information concerning a Party and/or its Subsidiaries or with respect to ElectronicsCo, the ElectronicsCo Business, any ElectronicsCo Asset or any ElectronicsCo Liabilities, or with respect to RemainCo, the RemainCo Business, any RemainCo Assets or any RemainCo Liabilities, which, prior to or following the Effective Time, has been disclosed by a Party or its Subsidiaries to the other Party or its Subsidiaries, or otherwise has come into the possession of, the other, including pursuant to the access provisions of Sections 9.1 or 9.2 or any other provision of this Agreement, including any data or documentation resident, existing or otherwise provided in a database or in a storage medium, permanent or temporary, intended for confidential, proprietary and/or privileged use by a Party (except to the extent that such Information can be shown to have been (a) in the public domain or known to the public through no fault of the receiving Party or its Subsidiaries, (b) lawfully acquired by the receiving Party or its Subsidiaries from other sources not known to be subject to confidentiality obligations with respect to such Confidential Information or (c) independently developed by the receiving Party or its Affiliates after the Distribution without reference to or use of any Confidential Information). As used herein, by example and without limitation, Confidential Information shall mean any Information of a Party marked as confidential, proprietary and/or privileged.

(27) “Consents” shall mean any consents, waivers, notices, reports or other filings obtained, made or to be obtained from or made, including with respect to any Contract, or any registrations, licenses, permits, approvals, authorizations obtained or to be obtained from, or approvals from, or notification requirements to, any Person including a Governmental Entity.

(28) “Contract” shall mean any agreement, contract, subcontract, obligation, note, indenture, instrument, option, lease, sublease, promise, arrangement, release, warranty, license, sublicense, insurance policy, purchase order or legally binding commitment or undertaking of any nature (whether written or oral and whether express or implied).

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- (29) “Contract Manufacturing Agreements” shall mean the Contract Manufacturing Agreements set forth on Schedule 1.1(29).
- (30) “Controller” shall mean, in addition to any definition for any corollary term provided by Data Protection Laws, the Person who or that determines the purposes and means of the Processing of Personal Data.
- (31) “Conveyancing and Assumption Instruments” shall mean, collectively, the various Contracts and other documents entered into prior to the Effective Time and to be entered into to effect the Transfer of Assets and the Assumption of Liabilities in the manner contemplated by this Agreement and the Internal Reorganization, or otherwise relating to, arising out of or resulting from the Transfer of Assets and/or Assumption of Liabilities between members of two Groups, in such form or forms as the applicable parties thereto agree, which shall be on an “as is”, “where is” and “with all faults” basis, and in the case of Conveyancing and Assumption Instruments relating to real property, subject to the further provisions of Section 2.7.
- (32) “Copyrights” shall mean copyrightable works, copyrights (including in product label or packaging artwork or templates), moral rights, mask work rights, database rights and design rights, in each case, whether or not registered, and registrations and applications for registration thereof.
- (33) “Corporate Trade Payables” shall have the meaning set forth in Section 1.1(75)(xvii)(b).
- (34) “Corrective Action Performing Party” shall have the meaning set forth in Section 8.10(f)(i).
- (35) “Corteva” shall mean Corteva, Inc., a Delaware corporation.
- (36) “Corteva Letter Agreement” shall mean that certain letter agreement, dated as of June 1, 2019, by and between RemainCo (then known as DowDuPont Inc.) and Corteva.
- (37) “Credit Support Instruments” shall mean any letters of credit, performance bonds, surety bonds, bankers acceptances or other similar arrangements.
- (38) “Damages” shall mean any loss, damage, injury, claim, demand, payments (including those arising out of any settlement or judgment relating to any proceeding), award, fine, penalty, Tax, fee (including reasonable out of pocket attorneys’ or advisors’ fees and disbursements incurred in the defense thereof), charge, cost (including reasonable costs of investigation) or expense of any nature, excluding, except as set forth in Section 10.1(c)(v), any incidental, indirect, special, exemplary, punitive or consequential damages (including lost revenues or profits), but including amounts paid or payable to third parties in respect of any third-party claim for which indemnification hereunder is otherwise required (including components of such third-party claim relating to incidental, indirect, special, exemplary, punitive or consequential damages (including lost revenues or profits)).

(39) “Data Protection Laws” shall mean the following to the extent applicable from time to time: (a) the California Consumer Privacy Act, as amended by the California Privacy Rights Act; (b) the General Data Protection Regulation (2016/679) (“GDPR”), the GDPR as transposed into the national laws of the United Kingdom (“UK GDPR”) and any national law supplementing the GDPR and UK GDPR; (c) the Swiss Federal Act on Data Protection; (d) the Canadian Personal Information Protection and Electronic Documents Act, the Canadian Anti-Spam Legislation, SC 2010 c 23; (e) the Singapore Personal Data Protection Act 2012; (f) the Brazilian Lei Geral de Proteção de Dados Pessoais; (g) the Personal Information Protection Law of the People’s Republic of China and any laws, administrative regulations, or departmental rules which supplement its provisions; and (h) any other data protection or privacy Laws or binding codes of practice issued by or with the approval of a relevant data protection authority applicable to the Processing of Personal Data (as amended and/or replaced from time to time).

(40) “Data Subject” shall mean, in addition to any definition for any corollary term provided by Data Protection Laws, any identified or identifiable natural person to whom the Personal Data Processed pursuant to this Agreement or any Ancillary Agreement relates.

(41) “Decision on Interim Relief” shall have the meaning set forth in Section 10.1(c)(ix).

(42) “Demolition Party” shall have the meaning set forth in Section 8.11(a).

(43) “Designated Ancillary Agreements” shall mean the Employee Matters Agreement, the IP Cross-License Agreement, the House Marks License Agreement, the Tax Matters Agreement and the Regulatory Matters Agreement.

(44) “Discontinued and/or Divested Operations and Business Liabilities” shall mean any and all Liabilities to the extent arising out of or related to (including any indemnification Liabilities arising under Contracts related to, except for any indemnification Liabilities arising out of, resulting from and or related to the ElectronicsCo Business, ElectronicsCo Liabilities (for this purpose, tested without giving effect to Discontinued and/or Divested Operations and Businesses Liabilities constituting ElectronicsCo Liabilities), RemainCo Business or RemainCo Liabilities (for this purpose, tested without giving effect to Discontinued and/or Divested Operations and Businesses Liabilities constituting RemainCo Liabilities)) any Discontinued and/or Divested Operations and Businesses of any member (at any point in time) of either Group (or any of their respective predecessors), including any such Liabilities set forth on Schedule 1.1(44); provided, however, “Discontinued and/or Divested Operations and Business Liabilities” shall not include any DWDP Legacy Liabilities, Legacy PFAS Liabilities, ElectronicsCo Designated Liabilities, RemainCo Designated Liabilities, Specified DuPont Shared Liabilities or Shared DuPont-Third Party Real Property Liabilities.

(45) “Discontinued and/or Divested Operations and Businesses” shall mean any (a)(v) company, (w) business, (x) business unit, (y) product line or (z) business operation operated or conducted, and (b) any site or plant (and in each case clauses (a)(v) through (z) and (b)) any portion thereof that was owned, leased, occupied or otherwise used by (or on behalf of) any member of either Group (or any predecessor thereto) or any former Affiliate thereof (but for former Affiliates, in each case, only to the extent arising out of, relating to or resulting from occurrences prior to the date such Persons ceased to be Affiliates of either Group or the applicable predecessor thereof) (or for which any member of either Group has become liable



other than to the extent related to the conduct of the ElectronicsCo Business and RemainCo Business) at any time prior to the Distribution and that was not owned, operated or conducted or, with respect to plants and sites, used by (or on behalf of) a member of either Group in the active conduct of the ElectronicsCo Business or RemainCo Business as of the Distribution, in each case, whether as a result of sale, transfer, conveyance or other disposition or abandonment, closure, discontinuation or other cessation (other than (i) any temporary cessation or closure set forth on Schedule 1.1(45) and any other temporary cessation or closure of a site (or any portion thereof) that has been resolved by the placement of such site or portion thereof back into active use by the Group to which such Asset has been allocated pursuant to this Agreement (but in the case of Assets subject to an Intergroup Lease, by the Lessee Party) prior to the Distribution (as evidenced in writing prior to the Distribution) of any (I)(v) company, (w) business, (x) business unit, (y) product line or (z) business operation operated or conducted and (II) any site or plant (and in each case (clauses (I)(v) through (z) and (II)) any portion thereof) and (ii) any Discontinued Closely Linked Product).

(46) “Discontinued Buildings and Related Improvements” shall have the meaning set forth in Section 8.11(a).

(47) “Discontinued Closely Linked Product” shall mean any product that (a) was sold, manufactured or otherwise commercialized by (or on behalf of) any member of either Group (or any predecessor thereto) or any former Subsidiary thereof (or for which any member of either Group has become liable other than to the extent related to the conduct of the ElectronicsCo Business and RemainCo Business) at any time prior to the Distribution Date, (b) was not sold, manufactured or otherwise commercialized by (or on behalf of) a member of either Group in the conduct of the ElectronicsCo Business or RemainCo Business as of the Distribution Date as a result of any abandonment, closure, discontinuation or other cessation (other than (x) from a sale, transfer, conveyance or other disposition and (y) any temporary cessation or closure set forth on Schedule 1.1(45)) of such product, and (c) with respect to which another product was sold, manufactured or otherwise commercialized in the conduct of the ElectronicsCo Business or RemainCo Business as of the Distribution Date that (as of the Distribution Date) was (i) identical in composition (other than immaterial differences), (ii) sold in substantially similar end markets for substantially similar uses, (iii) had the equivalent environment, health and safety characteristics and risk profiles (other than immaterial differences) and (iv) had the equivalent risk profile for unintentional material damage to tangible property (other than immaterial differences).

(48) “Dispute” shall have the meaning set forth in Section 10.1(a).

(49) “Dispute Notice” shall mean (a) the General Dispute Notice, (b) the Privilege Waiver Objection Notice or (c) Indemnification Notice, as applicable.

(50) “Distribution” shall mean the distribution on the Distribution Date to holders of shares of RemainCo Common Stock as of the Distribution Record Date of the ElectronicsCo Common Stock on the basis of one (1) share of ElectronicsCo Common Stock for every two (2) outstanding shares of RemainCo Common Stock.

(51) “Distribution Date” shall mean November 1, 2025.

(52) “Distribution Disclosure Documents” shall mean any registration statement (including any registration statement on Form 10 and all exhibits thereto (including the ElectronicsCo Information Statement) or on Form S-8 related to securities to be offered under any employee benefit plan) and any current reports on Form 8-K filed or furnished with the Commission by ElectronicsCo in connection with the Distribution or by RemainCo solely to the extent such documents relate to the Distribution, but excluding the Financing Disclosure Documents.

(53) “Distribution Record Date” shall mean October 22, 2025.

(54) “DWDP EMA” shall mean that certain Employee Matters Agreement, dated as of April 1, 2019, by and among RemainCo (then known as DowDuPont Inc.), Dow Inc. and Corteva, as modified, amended and/or supplemented pursuant to the Corteva Letter Agreement and at or prior to the Distribution.

(55) “DWDP Legacy Liabilities” shall mean any and all SpecCo Group Excess DuPont Discontinued and/or Divested Operations and Business Liabilities, SpecCo Group Specified DuPont Discontinued and/or Divested Operations and Business Liabilities, Specialty Products Related DuPont Discontinued and/or Divested Operations and Business Liabilities, and Shared Historical DuPont Liabilities (as each such term is defined in the DWDP SDA), including in each case any and all indemnification obligations to any “MatCo Indemnatee” (as defined in the DWDP SDA) and/or any “AgCo Indemnatee” (as defined in the DWDP SDA) pursuant to the DWDP SDA, DWDP EMA, DWDP TMA and/or the Corteva Letter Agreement for Indemnifiable Losses to the extent related to, arising out of or resulting from the foregoing.

(56) “DWDP SDA” shall mean that certain Separation and Distribution Agreement, dated as of April 1, 2019, by and among RemainCo (then known as DowDuPont Inc.), Dow Inc. and Corteva, as modified, amended and/or supplemented pursuant to the Corteva Letter Agreement and at or prior to the Distribution.

(57) “DWDP TMA” shall mean that certain Amended and Restated Tax Matters Agreement, dated as of June 1, 2019, by and among RemainCo (then known as DowDuPont Inc.), Dow Inc. and Corteva, as modified, amended and/or supplemented at or prior to the Distribution.

(58) “Effective Time” shall mean 12:00 AM, New York City Time, on the Distribution Date.

(59) “ElectronicsCo” shall have the meaning set forth in the preamble hereto.

(60) “ElectronicsCo Accounts” shall have the meaning set forth in Section 2.11(a).

(61) “ElectronicsCo Assets” shall mean any and all right, title and interest in and to the following Assets of (x) any member of the ElectronicsCo Group at the time of the Distribution and (y) any member of the RemainCo Group at the time of the Distribution (provided, however, that ElectronicsCo Assets shall not include Tax Assets, which shall be governed by the Tax Matters Agreement, or Assets allocated pursuant to the Employee Matters Agreement, which shall be governed thereby):

(i) (A) all interests in the capital stock of, or any other equity interests in, the members of the ElectronicsCo Group (other than ElectronicsCo), including those set forth on Schedule 1.1(71), and (B) the capital stock and other equity interests set forth on Schedule 1.1(61)(i)(B), of certain other Persons, and in each case (clauses (A) and (B)), any and all rights related thereto;

(ii) the Assets set forth on Schedule 1.1(61)(ii);

(iii) any and all rights and interests of the ElectronicsCo Group under this Agreement, including any payments owed to ElectronicsCo pursuant to Section 2.12;

(iv) (A) all rights, title and interest in and to the owned real property set forth on Schedule 1.1(61)(iv)(A), including, in each case, all land and land improvements, structures, buildings and building improvements, tidelands or other marine leases, other improvements, fixtures, rights of ingress and egress, rights under any covenants, conditions and/or restrictions, all contract rights, if any, relating to the operation of the land or any improvements thereon, all riparian rights, surface and underground water rights, and any and all other water rights pertaining to the land, and any and all licenses, permits, registrations, approvals and authorizations which have been issued by any Governmental Entity related to the land and all easements and rights of way pertaining thereto or accruing to the benefit thereof and appurtenances located thereon or associated therewith (except to the extent otherwise set forth on Schedule 1.1(61)(iv)(A) under the heading "Other Parties in Possession") (the "ElectronicsCo Specified Owned Real Property") and (B) all rights, title and interest in, and to and under the leases or subleases of the real property set forth on Schedule 1.1(61)(iv)(B), including, in each case, to the extent provided for in such leases, any land and land improvements, structures, buildings and building improvements, tidelands or other marine leases, other improvements, fixtures, rights of ingress and egress, rights under any covenants, conditions and/or restrictions, all contract rights, if any, relating to the operation of the land or any improvements thereon, all riparian rights, surface and underground water rights, and any and all other water rights pertaining to the land, and any and all licenses, permits, registrations, approvals and authorizations which have been issued by any Governmental Entity related to the land and all easements and rights of way pertaining thereto or accruing to the benefit thereof and appurtenances (except to the extent otherwise set forth on Schedule 1.1(61)(iv)(B) under the heading "Other Parties in Possession") (the "ElectronicsCo Specified Leased Real Property");

(v) any and all ElectronicsCo Shared Contracts; provided, however, that any such ElectronicsCo Shared Contracts shall be subject to Section 2.2(d);

(vi) any and all ElectronicsCo Vested Prior Transaction Rights;

(vii) any and all Intellectual Property (excluding IT Assets, which for clarity is governed by Section 1.1(61)(ix)) owned by RemainCo or ElectronicsCo, or any of their respective Affiliates, that is (A) Related to the ElectronicsCo Business (excluding (I) Intellectual Property set forth on Schedule 1.1(195)(vi), and (II) the RemainCo House Marks), or (B) set forth on Schedule 1.1(61)(vii);

(viii) any and all Assets in respect of accruals, counterclaims, insurance claims, rights to coverage under applicable insurance policies, warranties, contractual indemnities, control rights and other rights similar to the foregoing, in each case, to the extent related to any ElectronicsCo Liability, including those set forth on Schedule 1.1(61)(viii) (subject, in each case, to Article VI and Article VII);

(ix) any and all IT Assets owned, licensed to or by, or held by RemainCo or ElectronicsCo, or any of their respective Affiliates, that are (A) exclusively related to, used or held for use in the conduct of the ElectronicsCo Business (excluding IT Assets set forth on Schedule 1.1(195)(viii)), or (B) set forth on Schedule 1.1(61)(ix);

(x) all ElectronicsCo Contracts;

(xi) other than Intellectual Property, IT Assets and any and all Information to the extent related to any Legacy Liability or any Asset or Liability allocated between the RemainCo Group and the ElectronicsCo Group based on their respective Applicable Percentages, any and all Information exclusively related to the ElectronicsCo Business, and to the extent not exclusively related to the ElectronicsCo Business, any and all (A) Information to the extent related to any ElectronicsCo Asset or ElectronicsCo Liability, (B) books and records held at the ElectronicsCo Specified Owned Real Property, the ElectronicsCo Specified Leased Real Property and the ElectronicsCo Real Property (unless at a portion of such site leased to a different Group pursuant to an Intergroup Lease) and (C) corporate or similar legal entity books and records of any Person described in clause (i) of this definition of “ElectronicsCo Assets”;

(xii) the Assets set forth on Schedule 1.1(61)(xii) (the “Intentionally Delayed ElectronicsCo Assets”) (clauses (i) through (xii)), the “Specified ElectronicsCo Assets”;

(xiii) unless constituting a Specified RemainCo Asset or a Specified ElectronicsCo Asset:

(a) any and all rights, title and interest in, and to, any Asset (excluding IT Assets and Intellectual Property) of RemainCo or any of its Subsidiaries as of immediately prior to the Distribution that is not related to any Business (other than in a de minimis respect) (e.g., corporate or enterprise-wide Assets) set forth on Schedule 1.1(61)(xiii)(a);

(b) (I) all Cash and Cash Equivalents, notes, interest receivables and other financial assets owned by any member of the ElectronicsCo Group, and (II) all derivative instruments owned by any member of the ElectronicsCo Group;

(c) (I) all accounts and notes receivable to the extent related to the ElectronicsCo Business (provided, however, that any such accounts receivable represented by an invoice of less than \$500,000 shall not constitute ElectronicsCo Assets pursuant to this clause (c) if the aggregate amount of accounts receivable related to any Business in more than a de minimis respect represented by such invoice is Related to the RemainCo Business), and (II) all accounts receivable (other than those not related to any Business in more than a de minimis respect) represented by an invoice of less than \$500,000 if the aggregate amount of accounts receivable related to any Business in more than a de minimis respect represented by such invoice is Related to the ElectronicsCo Business;

(d) the Applicable ElectronicsCo Percentage of all accounts and notes receivable in respect of goods or services sold or provided by RemainCo or its Subsidiaries that are not related to any Business (other than in a de minimis respect), including those set forth on Schedule 1.1(61)(xiii)(d);

(e) all credits, prepaid expenses, rebates, deferred charges, advance payments, security deposits and prepaid items, in each case to the extent they are (I) used or held for use in, or arise out of, the operation or conduct of the ElectronicsCo Business (including, for the avoidance of doubt, such portion of any credits, prepaid expenses, rebates, deferred charges, advance payments, security deposits and prepaid items of the RemainCo Group to the extent they are used or held for use in, or arise out of, the operation or conduct of the ElectronicsCo Business), and/or (II) owned by a member of the ElectronicsCo Group, and are not related to any Business (other than in a de minimis respect), including those set forth on Schedule 1.1(61)(xiii)(e)(II);

(f) except for furniture, all tangible personal property and interests therein (including machinery, tools, equipment and vehicles), in each case, that is not related to any Business (other than in a de minimis respect) and that is set forth on Schedule 1.1(61)(xiii)(f);

(g) all furniture that is not related to any Business (other than in a de minimis respect) if, at the time of the Distribution, such furniture is held at (I) any ElectronicsCo Specified Owned Real Property or, except as may be provided pursuant to the terms of an Intergroup Lease (or lease with any Person other than the Parties and their respective Group members and Affiliates), ElectronicsCo Specified Leased Real Property or ElectronicsCo Real Property, in each case, other than any site set forth on Schedule 1.1(195)(xiv)(g), or (II) any site set forth on Schedule 1.1(61)(xiii)(g); and

(h) all rights, claims, causes of action and credits to the extent relating to any ElectronicsCo Asset that do not relate to any Business (other than in a de minimis respect) and do not relate to any RemainCo Liability (other than in a de minimis respect), including those arising under any guaranty, warranty, indemnity, right of recovery, right of set-off or similar right, including those set forth on Schedule 1.1(61)(xiii)(h) (subject, in each case, to Article VI and Article VII);

(xiv) if and to the extent not addressed by the Assets described in clauses (i) through (xiii) of this definition, any and all Assets Related to the ElectronicsCo Business, including in the following categories, but, in each case, excluding Intellectual Property, IT Assets, the Specified RemainCo Assets and the Assets described in clause (xiv) of the definition of “RemainCo Assets”:

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(a) (I) all rights, title and interest in and to the owned real property Related to the ElectronicsCo Business, including, in each case, all land and land improvements, structures, buildings and building improvements, tidelands or other marine leases, other improvements, fixtures, rights of ingress and egress, rights under any covenants, conditions and/or restrictions, all contract rights, if any, relating to the operation of the land or any improvements thereon, all riparian rights, surface and underground water rights, and any and all other water rights pertaining to the land, and any and all licenses, permits, registrations, approvals and authorizations which have been issued by any Governmental Entity related to the land and all easements and rights of way pertaining thereto or accruing to the benefit thereof and appurtenances located thereon or associated therewith, and (II) all rights, title and interest in, and to and under the leases or subleases of the real property Related to the ElectronicsCo Business, including, in each case, to the extent provided for in such leases, any land and land improvements, structures, buildings and building improvements, tidelands or other marine leases, other improvements, fixtures, rights of ingress and egress, rights under any covenants, conditions and/or restrictions, all contract rights, if any, relating to the operation of the land or any improvements thereon, all riparian rights, surface and underground water rights, and any and all other water rights pertaining to the land, and any and all licenses, permits, registrations, approvals and authorizations which have been issued by any Governmental Entity related to the land and all easements and rights of way pertaining thereto or accruing to the benefit thereof and appurtenances (collectively, the “ElectronicsCo Real Property.”);

(b) except for IT Assets and ElectronicsCo Inventory, any and all tangible personal property and interests therein, including machinery, furniture, tools, equipment, vehicles, in each case that are Related to the ElectronicsCo Business;

(c) any and all raw materials, works-in-process, supplies, ingredients, inputs, parts, packaging, finished goods and products and other inventories, in each case that are Related to the ElectronicsCo Business (the “ElectronicsCo Inventory.”);

(d) any and all Consents, registrations and Registration Data, in each case, that is Related to the ElectronicsCo Business;

(e) any and all Information (other than Intellectual Property and IT Assets) that is Related to the ElectronicsCo Business; and

(f) any and all interests in the capital stock of, or other equity interests in, any Person that is not a member of the ElectronicsCo Group or RemainCo Group that is Related to the ElectronicsCo Business.

In the event of any inconsistency or conflict which may arise in the application or interpretation of any of the foregoing provisions and the provisions of the definition of RemainCo Assets, such inconsistency shall be resolved using the following order of precedence: (i) any Specified ElectronicsCo Asset listed on Schedules 1.1(71), 1.1(61)(i)(B), 1.1(61)(ii), 1.1(61)(iv)(A) and (B) (except to the extent otherwise set forth on Schedules 1.1(61)(iv)(A) and (B) under the heading "Other Parties in Possession"), 1.1(61)(vii), 1.1(61)(viii), 1.1(61)(ix) and 1.1(61)(xii) constitutes an ElectronicsCo Asset, (ii) any Contract listed on Schedules 1.1(65)(ii) or 1.1(81), constitutes an ElectronicsCo Asset, (iii) any Shared Contract listed on Schedules 1.1(78) or 1.1(214) constitutes an ElectronicsCo Asset (subject to Section 2.2(d)), and (iv)(a) any Asset listed on Schedule 1.1(61)(xiii)(a) shall give rise to a rebuttable presumption in favor of ElectronicsCo that such Asset is not related to any Business (other than in a de minimis respect), (b) any Asset listed on Schedule 1.1(61)(xiii)(d) shall give rise to a rebuttable presumption in favor of ElectronicsCo that such Asset is not related to any Business (other than in a de minimis respect), (c) any Asset listed on Schedule 1.1(61)(xiii)(e)(II) shall give rise to a rebuttable presumption in favor of ElectronicsCo that such Asset, is owned by a member of the ElectronicsCo Group and is not related to any Business (other than in a de minimis respect), (d) any Asset listed on Schedule 1.1(61)(xiii)(f) shall give rise to a rebuttable presumption in favor of ElectronicsCo that such Asset is not related to any Business (other than in a de minimis respect), (e) any furniture at any site set forth on Schedule 1.1(61)(xiii)(g) shall give rise to a rebuttable presumption in favor of ElectronicsCo that such furniture is not related to any Business (other than in a de minimis respect) and (f) any Asset listed on Schedule 1.1(61)(xiii)(h) shall give rise to a rebuttable presumption in favor of ElectronicsCo that such Asset is not related to any Business (other than in a de minimis respect) and is not related to any RemainCo Liability (other than in a de minimis respect). Notwithstanding anything to the contrary herein, this Agreement and the Ancillary Agreements do not purport to transfer ownership of any of the Parties' insurance policies, and any assignment of rights to coverage under such insurance policies is governed by Article XI herein.

(62) "ElectronicsCo Business" shall mean the following lines of business (whether covered independently or in association with one or more third parties through a partnership, joint venture or other mutual enterprise), in each case as conducted prior to the Distribution Date by any member of the ElectronicsCo Group or RemainCo Group (or any of their respective predecessors): Semiconductor Technologies (which, for avoidance of doubt, includes Chemical Mechanical Planarization Technologies (CMPT); Lithography; Chemical Mechanical Planarization (CMP) Slurries; Displays HDM/PI; Organic Light Emitting Diodes (OLEDs); Display Materials; Advanced Clean Technologies; and Kalrez®) and Interconnect Solutions (which, for avoidance of doubt, includes LED Silicones; Metalization and Imaging; Advanced Packaging (APT); Semi Packaging Silicones; Laminates; Films; Laird Performance Materials; and Electronic Polymers).

(63) "ElectronicsCo Cash Distribution" shall mean the cash distribution to be made by ElectronicsCo to RemainCo as set forth on Schedule 1.1(63).

(64) "ElectronicsCo Common Stock" shall have the meaning set forth in the recitals hereto.

(65) “ElectronicsCo Contracts” shall mean Contracts to which RemainCo or any of its Subsidiaries is a party or by which it or any of its Subsidiaries or any of their respective Assets is bound, whether or not in writing, which fall within any of the following categories:

(i) any and all Contracts that relate exclusively to the ElectronicsCo Business, the ElectronicsCo Assets and/or the ElectronicsCo Liabilities and are not related (other than in a de minimis respect) to the RemainCo Business, any RemainCo Asset or any RemainCo Liability, and the ElectronicsCo Specified Prior Transaction Agreements; and

(ii) any and all Contracts to which RemainCo or any of its Subsidiaries was a party as of the time of the Distribution (and any amendments, extensions or replacements thereof) that are not related in any respect (other than in a de minimis respect) to any Business and are set forth on Schedule 1.1(65)(ii) (the “ElectronicsCo Specified Corporate Contracts”).

(66) “ElectronicsCo CSIs” shall have the meaning set forth in Section 2.10(d).

(67) “ElectronicsCo Discontinued and/or Divested Operations and Business Liabilities” shall mean the Applicable ElectronicsCo Percentage of any and all Discontinued and/or Divested Operations and Business Liabilities.

(68) “ElectronicsCo Environmental Liabilities” shall mean the Environmental Liabilities described in clauses (v), (viii), (ix), (x), (xi) and (xiv) of the definition of “ElectronicsCo Liabilities”.

(69) “ElectronicsCo Financing Arrangements” shall mean the financing arrangements described on Schedule 1.1(69).

(70) “ElectronicsCo Form 10” shall mean the registration statement on Form 10 filed by ElectronicsCo with the Commission in connection with the Distribution.

(71) “ElectronicsCo Group” shall mean ElectronicsCo and each Person (other than any member of the RemainCo Group) that is a direct or indirect Subsidiary of ElectronicsCo immediately prior to the Distribution (but after giving effect to the Internal Reorganization), and each Person that becomes a Subsidiary of ElectronicsCo following the Distribution, which, for the avoidance of doubt, shall include those Persons identified as such on Schedule 1.1(71) (and shall not include the Persons on Schedule 1.1(204)).

(72) “ElectronicsCo Indemnitees” shall mean each member of the ElectronicsCo Group and each of their Affiliates from and after the Effective Time and each member of the ElectronicsCo Group’s and their respective current, former and future Affiliates’ respective directors, officers, employees and agents and each of the heirs, executors, successors and assigns of any of the foregoing.

(73) “ElectronicsCo Information Statement” shall mean the Information Statement attached as an exhibit to the ElectronicsCo Form 10 sent to the holders of shares of RemainCo Common Stock in connection with the Distribution, including any amendment or supplement thereto.

(74) “ElectronicsCo Inventory” shall have the meaning set forth in Section 1.1(61)(xiv)(c).



(75) “ElectronicsCo Liabilities” shall mean any and all Liabilities of (x) any member of the ElectronicsCo Group at the time of the Distribution and/or (y) any member of the RemainCo Group at the time of the Distribution, in the following categories, in each case, regardless of (1) when or where such Liabilities arose or arise, (2) where or against whom such Liabilities are asserted or determined, (3) regardless of whether arising from or alleged to arise from negligence, gross negligence, recklessness, violation of Law, fraud or misrepresentation by any member of the ElectronicsCo Group or RemainCo Group, as the case may be, or any of their past or present respective directors, officers, employees, agents, Subsidiaries or Affiliates and (4) which entity is named in any Action associated with any Liability (except for Liabilities related to Taxes and Employee Related Liabilities which are governed exclusively by the Tax Matters Agreement and the Employee Matters Agreement, respectively):

(i) any and all Liabilities that are expressly assumed by or allocated to the ElectronicsCo Group pursuant to this Agreement or any Ancillary Agreement, including any obligations and Liabilities of any member of the ElectronicsCo Group under this Agreement or any Ancillary Agreement, including those pursuant to Section 12.5 hereof;

(ii) any and all Liabilities (including under applicable federal and state securities Laws) relating to, arising out of or resulting from (A) the Distribution Disclosure Documents, including the ElectronicsCo Form 10, filed or furnished with the Commission in connection with the Distribution, (B) the Financing Disclosure Documents in connection with any offer for sale or registration of the Transfer or distribution of securities or indebtedness of the ElectronicsCo Group, including in connection with the ElectronicsCo Financing Arrangements, except, in each of clauses (A) and (B), for statements expressly relating to the RemainCo Business, or (C) the ElectronicsCo Financing Arrangements;

(iii) any and all Liabilities arising out of Inventor Remuneration to the extent related to (A) the Intellectual Property constituting an ElectronicsCo Asset (other than any discrete and reasonably identifiable part thereof solely attributable to the use or sublicense of such Intellectual Property by any member of the RemainCo Group as Licensee (as such term is defined in the IP Cross-License Agreement) under the IP Cross-License Agreement), or (B) the discrete and reasonably identifiable part of the Intellectual Property constituting a RemainCo Asset solely attributable to the use or sublicense of such Intellectual Property by any member of the ElectronicsCo Group as Licensee (as such term is defined in the IP Cross-License Agreement) under the IP Cross-License Agreement;

(iv) any and all Specified Transaction Expenses that, in the aggregate, exceed the Specified Transaction Expenses Threshold;

(v) the Applicable ElectronicsCo Percentage of any and all DWDP Legacy Liabilities;

(vi) any and all of the Liabilities set forth on Schedule 1.1(75)(vi);

(vii) any and all of the Liabilities set forth on Schedule 1.1(75)(vii) (“ElectronicsCo Designated Liabilities”) which do not constitute Environmental Liabilities;

(viii) other than DWDP Legacy Liabilities (which for clarity is governed by Section 1.1(75)(v)), the Liabilities described in clause (xiv) of this definition (which for clarity is governed by Section 1.1(75)(xiv)), and Shared DuPont-Third Party Real Property Liabilities (which for clarity is governed by Section 1.1(75)(x)), any and all ElectronicsCo Designated Liabilities which constitute Environmental Liabilities to the extent relating to, arising out of or resulting from the real property set forth on Schedule 1.1(75)(viii) (the “Specified Environmental ElectronicsCo Designated Liabilities”);

(ix) other than Specified Environmental ElectronicsCo Designated Liabilities (which for clarity is governed by Section 1.1(75)(viii)), the Applicable ElectronicsCo Percentage of any and all Legacy PFAS Liabilities;

(x) other than DWDP Legacy Liabilities (which for clarity is governed by Section 1.1(75)(v)), the Liabilities described in clause (xiv) of this definition (which for clarity is governed by Section 1.1(75)(xiv)), and Legacy PFAS Liabilities (which for clarity is governed by Section 1.1(75)(ix)), and subject to the proviso in Section 1.1(75)(xi)(C), the Applicable ElectronicsCo Percentage of (A) any and all Environmental Liabilities to the extent relating to, arising out of or resulting from any Shared DuPont-Third Party Real Property or (B) any and all Off-Site Environmental Liabilities to the extent related to or arising out of Hazardous Substances or wastes generated at Shared DuPont-Third Party Real Property, in each of clauses (A) and (B), to the extent related to or arising out of occurrences prior to the Distribution (collectively, the “Shared DuPont-Third Party Real Property Liabilities”);

(xi) other than DWDP Legacy Liabilities (which for clarity is governed by Section 1.1(75)(v)), Specified Environmental ElectronicsCo Designated Liabilities (which for clarity is governed by Section 1.1(75)(viii)), Legacy PFAS Liabilities (which for clarity is governed by Section 1.1(75)(ix)), the Liabilities described in clause (xiv) of this definition (which for clarity is governed by Section 1.1(75)(xiv)), and Shared DuPont-Third Party Real Property Liabilities (which for clarity is governed by Section 1.1(75)(x)), (A) any and all ElectronicsCo Discontinued and/or Divested Operations and Business Liabilities that constitute Environmental Liabilities set forth on Schedule 1.1(75)(xi)(A); (B) Environmental Liabilities set forth on Schedule 1.1(75)(xi)(B); (C)(1) any Environmental Liabilities to the extent relating to, arising out of or resulting from any ElectronicsCo Real Property, ElectronicsCo Specified Owned Real Property or ElectronicsCo Specified Leased Real Property, and (2) any and all Off-Site Environmental Liabilities to the extent relating to or arising out of Hazardous Substances or wastes generated at ElectronicsCo Real Property, ElectronicsCo Specified Owned Real Property or ElectronicsCo Specified Leased Real Property, in each of clauses (1) and (2), to the extent a member of the ElectronicsCo Group is the Relevant Site Party of such ElectronicsCo Real Property, ElectronicsCo Specified Owned Real Property or ElectronicsCo Specified Leased Real Property; provided, however, that any such Environmental Liabilities to the extent relating to, arising out of or resulting from

those real properties set forth on Schedule 1.1(75)(xi)(C) shall instead be to the extent relating to, arising out of or resulting from the ElectronicsCo Business; and (D) the Applicable ElectronicsCo Percentage of any and all Environmental Liabilities to the extent relating to, arising out of or resulting from the activities, operations or businesses of past, present or future third party tenants located at Experimental Station;

(xii) any and all ElectronicsCo Discontinued and/or Divested Operations and Business Liabilities which do not constitute Environmental Liabilities;

(xiii) any and all Liabilities (other than Corporate Trade Payables) primarily related to, arising out of or resulting from the ElectronicsCo Specified Corporate Contracts;

(xiv) the Applicable ElectronicsCo Percentage of any and all Liabilities in respect of the funding obligations of RemainCo under the MOU, including with respect to the funding of the escrow account thereunder;

(xv) any and all Liabilities relating to, arising out of or resulting from any services provided or being provided to, on behalf of or for the benefit of the ElectronicsCo Group, regardless of whether a member of the RemainCo Group or ElectronicsCo Group, or their respective personnel, procured or provided or is procuring or providing such services, including, for the avoidance of doubt, (A) any services provided in connection with the audit, preparation, printing, filing, delivery and/or public dissemination of any financial statements of the ElectronicsCo Group and (B) those services set forth on Schedule 1.1(75)(xv) (provided that any such services being provided pursuant to the Transition Services Agreement or another Ancillary Agreement shall be governed thereby);

(xvi) any and all Liabilities for Indebtedness of the type described in clauses (a), (d) and (g) (but in case of clause (g) solely with respect to clauses (a) and (d)) of the definition of Indebtedness of RemainCo or any of its Subsidiaries that was incurred by any member of the ElectronicsCo Group (and any such Indebtedness guaranteed by any of RemainCo's Subsidiaries that is a member of the ElectronicsCo Group), including those set forth on Schedule 1.1(75)(xvi) (clauses (i) through (xvi) of this Section 1.1(75), the "Specified ElectronicsCo Liabilities");

(xvii) unless constituting a Specified RemainCo Liability or a Specified ElectronicsCo Liability:

(a) (I) any and all checks issued but not drawn and accounts payable to the extent related (other than in de minimis respects) to the ElectronicsCo Business (provided, however, that any such accounts payable represented by an invoice of less than \$500,000 shall not constitute ElectronicsCo Liabilities pursuant to this clause (a) if the aggregate amount of accounts payable represented by such invoice is Related to the RemainCo Business), and (II) all accounts payable represented by an invoice of less than \$500,000 if the aggregate amount of accounts payable represented by such invoice is Related to the ElectronicsCo Business (except for any such accounts payable represented by such invoice that are not related to any Business in more than a de minimis respect);

(b) the Applicable ElectronicsCo Percentage of the Liabilities of RemainCo or any of its Subsidiaries for any and all checks issued but not drawn and accounts payable of RemainCo or any of its Subsidiaries as of immediately prior to the Distribution, which are not related to any Business (other than in a de minimis respect) (the “Corporate Trade Payables”), including those set forth on Schedule 1.1(75)(xvii)(b); and

(c) the Applicable ElectronicsCo Percentage of any Specified DuPont Shared Liability;

(xviii) if and to the extent not addressed by the Liabilities described in clauses (i) through (xvii) of this definition, any and all Liabilities to the extent relating to, arising out of or resulting from the ElectronicsCo Business, including in the following categories, but in each case, excluding the Specified RemainCo Liabilities and the Liabilities described in clause (xvi) of the definition of RemainCo Liabilities:

(a) any and all Liabilities related to, arising out of or resulting from any Action to the extent related to the ElectronicsCo Business, including such Actions listed on Schedule 1.1(75)(xviii)(a);

(b) any and all Liabilities to the extent related to, arising out of or resulting from any of the ElectronicsCo Contracts; and

(c) any and all Liabilities to the extent related to, arising out of or resulting from any of the ElectronicsCo Assets (other than RemainCo Liabilities).

In the event of any inconsistency or conflict which may arise in the application or interpretation of any of the foregoing provisions and the provisions of the definition of RemainCo Liabilities, such inconsistency shall be resolved using the following order of precedence: (i) the Applicable ElectronicsCo Percentage of any DWDP Legacy Liability or any Liability described in Section 1.1(75)(xiv) constitutes an ElectronicsCo Liability, (ii) any Specified ElectronicsCo Liability listed on Schedules 1.1(75)(vi), 1.1(75)(vii), 1.1(75)(viii), 1.1(75)(xi)(A), 1.1(75)(xi)(B), 1.1(75)(xi)(C), 1.1(75)(xv) and 1.1(75)(xvi) constitutes an ElectronicsCo Liability, (iii) the Applicable ElectronicsCo Percentage of any Legacy Liability (other than a DWDP Legacy Liability) constitutes an ElectronicsCo Liability, (iv) any Liability listed on Schedule 1.1(75)(xvii)(b) shall give rise to a rebuttable presumption in favor of ElectronicsCo that such Liability is not related to any Business (other than in a de minimis respect), and (v) any Liability listed on Schedule 1.1(75)(xviii)(a) shall give rise to a rebuttable presumption in favor of ElectronicsCo that such Liability relates to the ElectronicsCo Business and/or ElectronicsCo Assets. In addition, the allocation set forth in clauses (v), (viii), (ix), (x), (xi) and (xiv) of this definition of “ElectronicsCo Liabilities” is not intended to affect or impact the share of any such Environmental Liability attributable to third parties.

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- (76) “ElectronicsCo Real Property” shall have the meaning set forth in the definition of “ElectronicsCo Assets”.
- (77) “ElectronicsCo Series A Preferred Stock” shall mean the Series A Preferred Stock, par value \$1,500,000 per share, of ElectronicsCo.
- (78) “ElectronicsCo Shared Contracts” shall mean any and all Shared Contracts that are primarily related to the ElectronicsCo Business, including those set forth on Schedule 1.1(78), but excluding any ElectronicsCo Specified Corporate Contract or any RemainCo Specified Corporate Contract.
- (79) “ElectronicsCo Specified Leased Real Property” shall have the meaning set forth in the definition of “ElectronicsCo Assets”.
- (80) “ElectronicsCo Specified Owned Real Property” shall have the meaning set forth in the definition of “ElectronicsCo Assets”.
- (81) “ElectronicsCo Specified Prior Transaction Agreements” shall mean the Prior Transaction Agreements set forth on Schedule 1.1(81).
- (82) “ElectronicsCo Spin Contribution” means any contribution to ElectronicsCo by RemainCo in connection with, or in anticipation of, the Distribution.
- (83) “ElectronicsCo Vested Prior Transaction Rights” shall mean any and all rights of any member of the ElectronicsCo Group as a third-party beneficiary under the Prior Transaction Agreements, including pursuant to its status as an indemnitee under any such Prior Transaction Agreements.
- (84) “Emergency Arbitrator” shall mean an emergency arbitrator appointed by the ICDR in accordance with the Rules, as specified in Section 10.1.
- (85) “Employee Matters Agreement” shall mean the Employee Matters Agreement, dated as of the date hereof, by and between ElectronicsCo and RemainCo.
- (86) “Employee Records” shall have the meaning set forth in the Employee Matters Agreement.
- (87) “Engineering Models and Databases” shall mean (a) physical property databases, (b) empirical or mathematical dynamic or steady state models of processes, equipment and/or reactions and databases containing data resulting from such models, (c) computations of equipment or unit operation operating conditions including predictive or operational behavior and (d) databases with historical operational data.
- (88) “Environmental Laws” shall mean all Laws relating to pollution or protection of the environment or, as such relates to exposure to Hazardous Substances, to human health or safety, including Laws relating to the exposure to, or Release, threatened Release or the presence of Hazardous Substances, or otherwise relating to the manufacture, processing, distribution, use, treatment, storage, transport or handling of Hazardous Substances and all Laws with regard to recordkeeping, notification, disclosure and reporting requirements respecting Hazardous Substances, and all Laws relating to endangered or threatened species of fish, wildlife and plants and damage to and the protection of natural resources.

(89) “Environmental Liabilities” shall mean any Liabilities, arising out of or resulting from any Environmental Law, Contract or agreement relating to the environment, Hazardous Substances or human exposure to Hazardous Substances, including (a) fines, penalties, judgments, awards, settlements, claims, demands, complaints, Damages, losses, costs or expenses, including fees and expenses of counsel, whether or not arising out of, relating to or in connection with any Actions, (b) costs of defense and other responses to any administrative or judicial action (including notices, claims, complaints, suits and other assertions of liability), (c) responsibility for any investigation, remediation, monitoring or cleanup costs, response costs, removal costs, injunctive relief, natural resource damages, and any other environmental compliance or remedial measures, and (d) costs and expenses relating to correcting violations of or non-compliance with applicable Environmental Laws.

(90) “Environmental Permit” shall mean any permit, license, approval or other authorization under any applicable Law or of any Governmental Entity relating to Environmental Laws or Hazardous Substances.

(91) “Exchange Act” shall mean the United States Securities Exchange Act of 1934, as amended, and the rules and regulations of the Commission promulgated thereunder, all as the same shall be in effect at the time that reference is made thereto.

(92) “Experimental Station” shall mean the real property located at 200 Powder Mill Rd, Wilmington, Delaware 19803.

(93) “Experimental Station Cost Sharing Agreement” shall mean that certain Cost Sharing Agreement (Experimental Station), dated as of August 28, 2025, by and between FCC Acquisition Corporation, a Delaware corporation, and DuPont Electronics, Inc., a Delaware corporation, and, solely with respect to Article IV therein, RemainCo and ElectronicsCo.

(94) “Final Determination” shall have the meaning set forth in the Tax Matters Agreement.

(95) “Financing Arrangements” shall mean, individually or collectively, the ElectronicsCo Financing Arrangement and the RemainCo Financing Arrangement, as applicable.

(96) “Financing Disclosure Documents” shall mean any prospectus, offering memorandum, offering circular (including franchise offering circular or any similar disclosure statement) or similar disclosure document, whether or not filed with the Commission or any other Governmental Entity, which offers for sale or registers the Transfer or distribution of securities or indebtedness of the ElectronicsCo Group or RemainCo Group, as applicable.

(97) “Force Majeure Event” shall mean, with respect to a Party, an event beyond the control of such Party (or any Person acting on its behalf), which by its nature could not have been foreseen by such Party (or such Person), or, if it could have been foreseen, was unavoidable, and includes acts of God, storms, floods, riots, pandemics, fires, sabotage, civil commotion or civil unrest, interference by civil or military authorities, acts of war (declared or undeclared) or armed hostilities or other national or international calamity or one or more acts of terrorism or failure of energy sources or distribution facilities.

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- (98) “GAAP” shall mean United States generally accepted accounting principles.
- (99) “GDPR” shall have the meaning set forth in the definition of “Data Protection Laws”.
- (100) “General Dispute Notice” shall have the meaning set forth in Section 10.1(b)(i).
- (101) “General Negotiation Period” shall have the meaning set forth in Section 10.1(b)(i).
- (102) “Governmental Entity” shall mean any nation or government, any state, municipality or other political subdivision thereof and any entity, body, agency, commission, department, board, bureau or court, whether domestic, foreign, multinational or supranational exercising executive, legislative, judicial, regulatory, self-regulatory or administrative functions of or pertaining to government and any executive official thereof.
- (103) “Ground Leases” shall mean the Ground Leases set forth on Schedule 1.1(103).
- (104) “Group” shall mean (a) with respect to ElectronicsCo, the ElectronicsCo Group, and (b) with respect to RemainCo, the RemainCo Group.
- (105) “Guaranty Release” shall have the meaning set forth in Section 2.10(b).
- (106) “Hazardous Substances” shall mean (a) any substances defined, listed, classified or regulated as “hazardous substances”, “hazardous wastes”, “hazardous materials”, “extremely hazardous wastes”, “restricted hazardous wastes”, “toxic substances”, “pollutants”, “solid wastes”, “contaminants”, “radioactive materials”, “petroleum”, “oils” or designations of similar import under any Environmental Law, or (b) any other chemical, material or substance for which standards of conduct are, or liability can be, imposed under any Environmental Law, including PFAS.
- (107) “House Marks License Agreement” shall mean that certain Transitional House Marks Trademark License Agreement, dated as of the date hereof, by and between RemainCo and ElectronicsCo.
- (108) “ICDR” shall have the meaning set forth in Section 10.1(c).
- (109) “Indebtedness” shall mean, with respect to any Person, (a) the principal value, prepayment and redemption premiums and penalties and other breakage costs (if any), unpaid fees and other monetary obligations (including interest) in respect of any indebtedness for borrowed money, whether short term (including overdrawn bank accounts) or long term, and all obligations evidenced by bonds, debentures, notes, other debt securities or similar instruments, (b) any indebtedness arising under any capital leases (excluding, for the avoidance of doubt, any real estate leases), whether short term or long term, (c) all liabilities secured by any Security

Interest on any assets of such Person, (d) all liabilities under any interest rate protection agreement, interest rate future agreement, interest rate option agreement, interest rate swap agreement or other similar agreement designed to protect such Person against fluctuations in interest rates, (e) all interest bearing indebtedness for the deferred purchase price of property or services, (f) all liabilities under any Credit Support Instruments, (g) all interest, fees and other expenses owed with respect to indebtedness described in the foregoing clauses (a) through (f), and (h) without duplication, all guarantees of indebtedness referred to in the foregoing clauses (a) through (g).

(110) “Indemnifiable Loss” and “Indemnifiable Losses” shall mean any and all Damages, losses, deficiencies, Liabilities, obligations, penalties, judgments, settlements, claims, payments, fines, interest, costs and expenses (including the costs and expenses of any and all Actions and demands, assessments, judgments, settlements and compromises relating thereto and the reasonable costs and expenses of attorneys’, accountants’, consultants’ and other professionals’ fees and expenses incurred in the investigation or defense thereof or the enforcement of rights hereunder).

(111) “Indemnification Notice” shall mean any notice delivered to the Indemnifying Party by the Indemnitee pursuant to Section 8.4(a) or Section 8.5.

(112) “Indemnifying Party” shall have the meaning set forth in Section 8.4(a).

(113) “Indemnitee” shall have the meaning set forth in Section 8.4(a).

(114) “Indemnity Payment” shall have the meaning set forth in Section 8.8(a).

(115) “Industrial Purpose” shall mean any of the following purposes: (a) manufacturing or fabrication of any nature (whether or not with respect to chemicals), (b) distribution, sale or use of chemicals or chemical products, (c) treatment, storage or disposal of hazardous waste or industrial waste or wastewater, (d) production, refining or sale of petroleum or its products (or any component of such activities), (e) servicing, refueling or maintenance of motorized vehicles (or any component of such activities), or (f) research in respect of any of the activities described in the foregoing clauses (a) through (e); provided, however, that, for the avoidance of doubt, any of the following purposes shall not be considered an Industrial Purpose: office use (including use of custodial chemicals or office or consumer chemicals in a manner consistent with normal office activities).

(116) “Industrial Real Property Restrictions” shall have the meaning set forth in Section 2.7(b).

(117) “Information” shall mean information, content, and data in written, oral, electronic, computerized, digital or other tangible or intangible media, including (a) books and records, whether accounting, legal or otherwise; ledgers, studies, reports, surveys, designs, specifications, drawings, blueprints, diagrams, models, prototypes, samples and flow charts; marketing plans, customer names and information (including prospects); technical information, including such information relating to the design, operation, maintenance, testing, test results, development, and manufacture of any Party’s or its Group’s products or facilities (including product or facility specifications and documentation; engineering, design, and manufacturing



drawings, diagrams, layouts, maps and illustrations; formulations and material specifications; laboratory studies and benchmark tests; quality assurance policies procedures and specifications; maintenance and inspection procedures and records; evaluation and/validation studies; process control and/or shop-floor control strategy, logic or algorithms; assembly code, Software, firmware, programming data, databases, and all information referred to in the same); product costs, margins and pricing; product marketing studies and strategies; product stewardship and safety; all other Know-How related to research, engineering, development and manufacturing; communications, correspondence, materials, product literature, artwork, files and documents; (b) information contained in Patents and Know-How; and (c) financial and business information, including earnings reports and forecasts, macro-economic reports and forecasts, all cost information (including supplier records and lists), sales and pricing data, business plans, market evaluations, surveys, credit-related information, and other such information as may be needed for reasonable compliance with reporting, disclosure, filing or other requirements, including under applicable securities laws or regulations of securities exchanges.

(118) “Insurance Policies” shall mean all Policies of the Parties and their respective Subsidiaries.

(119) “Insurance Proceeds” shall mean those monies (a) received by an insured from an insurer or (b) paid by an insurer on behalf of an insured, in either case net of any applicable premium adjustment, retrospectively-rated premium, deductible, retention or cost of reserve paid or held by or for the benefit of such insured.

(120) “Insurer” shall mean the insuring entity issuing and/or subscribing to one or more Insurance Policies.

(121) “Intellectual Property” shall mean any and all rights (created or arising in any jurisdiction anywhere in the world, whether statutory, common law, or otherwise) to the extent arising from or related to intellectual property, including (a) Patents, (b) Trademarks, (c) Copyrights, (d) rights in Know-How, (e) rights in Software, (f) all other intellectual property or proprietary rights, (g) all registrations and applications for registration of any of the foregoing clauses (a) through (f), and (h) all actions and rights to sue at law or in equity for any past, present or future infringement, misappropriation or other violation of any of the foregoing.

(122) “Intentionally Delayed ElectronicsCo Assets” shall have the meaning set forth in the definition of “ElectronicsCo Assets”.

(123) “Intentionally Delayed RemainCo Assets” shall have the meaning set forth in the definition of “RemainCo Assets”.

(124) “Intergroup Accounts” shall have the meaning set forth in Section 2.3.

(125) “Intergroup Leases” shall mean the Ground Leases and the Space Leases.

(126) “Interim Relief” shall have the meaning set forth in Section 10.1(c)(ix).

(127) “Internal Control Audit and Management Assessments” shall have the meaning set forth in Section 5.1(b).

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(128) “Internal Reorganization” shall mean the allocation and transfer or assignment of Assets and Liabilities, including by means of the Conveyancing and Assumption Instruments, resulting in (a) the ElectronicsCo Group owning and operating the ElectronicsCo Business and ElectronicsCo Assets and assuming the ElectronicsCo Liabilities and (b) the RemainCo Group owning and operating the RemainCo Business and the RemainCo Assets and assuming the RemainCo Liabilities.

(129) “Inventor Remuneration” shall mean any employee inventor consideration, remuneration or compensation that is required under applicable Law for work-for-hire inventions acquired by the employer. Examples may include employee inventions arising in Germany, France, China, Japan and Korea.

(130) “IP Cross-License Agreement” shall mean that certain Intellectual Property Cross-License Agreement, dated as of the date hereof, by and among members of the RemainCo Group and members of the ElectronicsCo Group.

(131) “IT Assets” shall mean all Software, computer systems, telecommunications equipment, databases, internet protocol addresses, data rights, and documentation, reference, resource and training materials to the extent relating thereto, and all Contracts (including Contract rights) relating to any of the foregoing (including software license agreements, source code escrow agreements, support and maintenance agreements, electronic database access contracts, domain name registration agreements, website hosting agreements, software or website development agreements, outsourcing agreements, service provider agreements, interconnection agreements, Permits, radio licenses and telecommunications agreements), other than, in each case, Know-How contained therein that is not intrinsically related to the operation or maintenance of such IT Assets.

(132) “Know-How” shall mean all confidential or proprietary information, including trade secrets, know-how and technical data, including any that comprise financial, business, scientific, technical, economic or engineering information and instructions, including any confidential or proprietary raw materials, material lists, raw material specifications, manufacturing or production files or specifications, plans, drawings, blueprints, design tools, quality assurance and control procedures, simulation capability, research data, manuals, compilations, reports, including technical reports and research reports, analyses, formulas, formulations, designs, prototypes, methods, techniques, processes, rights in research, development, manufacturing, financial, marketing and business data, pricing and cost information, customer and supplier lists and information, procedures, inventions and invention disclosure documents, as well as Plant Operating Documents, and Engineering Models and Databases, in each case, other than Patents.

(133) “Law” shall mean any U.S. or non-U.S. federal, national, supranational, state, provincial, local or similar statute, constitution, law, ordinance, regulation, rule, code, income tax treaty, order, requirement or rule of law (including common law) or other binding directives promulgated, issued, entered into or taken by any Governmental Entity.

(134) “Legacy Liabilities” shall mean any and all (a) Liabilities described in clauses (v), (vi) (to the extent allocated based on the Applicable ElectronicsCo Percentage), (ix), (x), (xi)(A), (xi)(D), (xii), (xiv), (xvii)(b) and (xvii)(c) of the definition of “ElectronicsCo Liabilities”, (b) Liabilities described in clauses (v), (vi) (to the extent allocated based on the Applicable RemainCo Percentage), (ix), (x), (xi)(A), (xi)(D), (xii), (xiv), (xvii)(b) and (xvi)(c) of the definition of “RemainCo Liabilities” and (c) other Liabilities allocated to each Party’s Group based on its respective Applicable Percentage pursuant to this Agreement.

(135) “Legacy PFAS Liabilities” means any and all Liabilities (including Environmental Liabilities) of RemainCo or its current or former Affiliates (but for former Affiliates, in each case, only to the extent arising out of, relating to or resulting from occurrences prior to the date such Persons ceased to be Affiliates of RemainCo) to the extent arising out of, relating to or resulting from the research, development, testing, manufacture, sale, distribution, use, storage, production, processing, recycling, treatment, transportation, handling, disposal or Release of, or exposure of any Person to, any PFAS (or any product containing any PFAS), including as an impurity; provided, however, that this does not include (a) any Liabilities resulting from the use of fire-fighting equipment and systems at any real property after the Distribution, (b) any ElectronicsCo Designated Liabilities (other than those that constitute Environmental Liabilities), (c) any RemainCo Designated Liabilities (other than those that constitute Environmental Liabilities), (d) any DWDP Legacy Liabilities or (e) any Liabilities in respect of the funding obligations of RemainCo under the MOU, including with respect to the funding of the escrow account thereunder.

(136) “Liabilities” shall mean any and all Indebtedness, liabilities, costs, expenses, interest and obligations, whether accrued or fixed, absolute or contingent, matured or unmatured, known or unknown, foreseen or unforeseen, reserved or unreserved, or determined or determinable, including those arising under any Law (including Environmental Law), Action, whether asserted or unasserted, or order, writ, judgment, injunction, decree, stipulation, determination or award entered by or with any Governmental Entity and those arising under any Contract or any fines, Damages or equitable relief which may be imposed and including all costs and expenses related thereto. Except as otherwise specifically set forth herein, the rights and obligations of the Parties with respect to Taxes and with respect to liabilities of the nature described in the preceding sentence of this definition that are allocated pursuant to the Employee Matters Agreement (“Employee Related Liabilities”) shall be governed by the Tax Matters Agreement and Employee Matters Agreement, respectively, and, therefore, Taxes and Employee Related Liabilities shall not be treated as Liabilities governed by this Agreement other than for purposes of indemnification related to the Distribution Disclosure Documents.

(137) “Liable Party” shall have the meaning set forth in Section 2.9(b).

(138) “Litigation Hold” shall have the meaning set forth in Section 9.1(b).

(139) “LL Paying Party” shall have the meaning set forth in Section 8.8(d).

(140) “Mixed Contract” shall mean any Contract that is related to any of (a) the ElectronicsCo Business or RemainCo Business (other than in a de minimis respect), on the one hand, and (b) the other Business, on the other hand (other than in a de minimis respect); provided, however, that no Prior Transaction Agreement shall constitute a Mixed Contract unless it constitutes a Severable Prior Transaction Agreement.

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(141) “MOU” shall mean that Memorandum of Understanding, dated as of January 22, 2021, by and among RemainCo, Corteva, E. I. du Pont de Nemours and Company and The Chemours Company, as modified, amended and/or supplemented at or prior to the Distribution, or following the Distribution in accordance with Section 7.2(a).

(142) “Negotiation Period” shall mean (a) the General Negotiation Period or (b) the Privilege Waiver Negotiation Period, as applicable.

(143) “Neptune SDA” shall mean that certain Separation and Distribution Agreement, dated as of December 15, 2019, by and among RemainCo, Nutrition & Biosciences, Inc., International Flavors & Fragrances, Inc. and Neptune Merger Sub II LLC, as modified, amended and/or supplemented at or prior to the Distribution.

(144) “New York Court” shall have the meaning set forth in Section 10.1(c)(x).

(145) “Non-Assumable Third Party Claims” shall have the meaning set forth in Section 8.4(b).

(146) “Non-Paying Party” shall have the meaning set forth in Section 8.8(d).

(147) “Non-Performing Impacted Party” shall have the meaning set forth in Section 8.10(c)(i).

(148) “Non-Performing Site Controller” shall have the meaning set forth in Section 8.10(c)(ii).

(149) “Non-Shared Contract” shall mean any Mixed Contract that is an IT Asset or set forth on Schedule 1.1(149).

(150) “Non-Transferred Permit” shall have the meaning set forth in Section 5.5(a).

(151) “Notice Recipient” shall have the meaning set forth in Section 2.2(d)(vi).

(152) “Notifying Party” shall have the meaning set forth in Section 2.2(d)(vi).

(153) “NYSE” shall mean the New York Stock Exchange.

(154) “Off-Site Environmental Liabilities” shall mean any and all Environmental Liabilities arising or associated with any third-party location that is not as of the time of the Distribution nor has ever been owned, leased or operated by RemainCo or any of its Subsidiaries to the extent arising out of occurrences prior to the time of the Distribution; provided that for purposes of clarification, Off-Site Environmental Liabilities shall not include Liability arising or associated with any third-party locations or environmental media that have been impacted by Hazardous Substances Released from any property owned, leased or operated by RemainCo or any of its Subsidiaries at or prior to the time of the Distribution.

(155) “Other Party” shall have the meaning set forth in Section 2.9(a).

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- (156) “Other Party’s Auditors” shall have the meaning set forth in Section 5.1(b).
- (157) “Other Surviving Intergroup Accounts” shall have the meaning set forth in Section 2.3.
- (158) “Partial Assignment” shall have the meaning set forth in Section 2.2(d)(i).
- (159) “Party” or “Parties” shall have the meaning set forth in the preamble hereto.
- (160) “Patent” shall mean patents, patent applications (including patents issued thereon) and statutory invention registrations, patents of importation, patents of improvement, certificates of addition, design patents and utility models, including reissues, divisionals, continuations, continuations-in-part, extensions, renewals and reexaminations thereof.
- (161) “Performing Party” shall have the meaning set forth in Section 8.10(b)(iv).
- (162) “Permit Transferee” shall mean ElectronicsCo or RemainCo, or another member of their respective Group, that requires a permit, including any Environmental Permit, to be transferred or issued to it with respect to the properties, businesses, and operations being conveyed or Transferred to it pursuant to this Agreement.
- (163) “Permit Transferor” shall mean each of ElectronicsCo or RemainCo or another member of its respective Group, as applicable, that currently holds a permit, including any Environmental Permit, that must be transferred, or in respect of which a new permit must be issued, to a member of the ElectronicsCo Group or RemainCo Group, or a relevant subsidiary, in connection with the transfer of any properties, businesses, or operations of the ElectronicsCo Group or RemainCo Group, respectively.
- (164) “Permits” shall mean permits, approvals, authorizations, consents, licenses, registrations, exemptions or certificates issued by any Governmental Entity (other than Registrations, which are addressed separately).
- (165) “Person” shall mean any natural person, firm, individual, corporation, business trust, joint venture, association, bank, land trust, trust company, company, limited liability company, partnership or other organization or entity, whether incorporated or unincorporated, or any Governmental Entity.
- (166) “Personal Data” shall mean (a) any information that can identify, relate to, describe, be associated with, or be reasonably capable of being associated with a particular individual, and (b) any information that constitutes “personal information”, “personal data”, “personally identifiable information” or other corollary term under Data Protection Laws.
- (167) “Personal Data Breach” shall mean the accidental or unlawful destruction, loss, alteration, unauthorized disclosure, exfiltration, or theft of, or access to, Personal Data, or other corollary terms under Data Protection Laws.

(168) “PFAS” means any perfluoroalkyl or polyfluoroalkyl substance with at least one fully fluorinated methylene carbon (-CF<sub>2</sub>-), including perfluorooctanoic substances, perfluorooctanoic acid, hexafluoropropylene oxide (HFPO) dimer acid, and any substances colloquially referred to as “PFAS”, “PFOA”, “PFOS” and/or “GenX”, and including, in each case, any acids, salts or derivatives thereof.

(169) “Plant Operating Documents” shall mean (a) plot plans, (b) construction, technical, engineering, electrical, instrument drawings, as-built or as-modified drawings including piping and instrument diagrams, 3-D (three-dimensional) models, wiring diagrams, flowsheets, structural designs, map and physical layouts, (c) process flow diagrams, (d) process control schematics, process control and/or shop-floor control strategies, logic or algorithms, (e) standard operating procedures, maintenance and inspection procedures and records, safety audit reports, investigations, safety incident investigation reports, process hazard reviews, capital projects, upgrades, improvements, designs for such projects, upgrades and/or improvements and (f) standard operating instructions and operating data (including product quality and safety data and maintenance and inspection data).

(170) “Policies” shall mean insurance policies and insurance Contracts of any kind (other than life and benefits policies or Contracts), including primary, excess and umbrella policies, comprehensive general liability policies, director and officer liability, fiduciary liability, automobile, aircraft, property and casualty, workers’ compensation and employee dishonesty insurance policies and bonds, together with the rights, benefits and privileges thereunder (which, for the avoidance of doubt, includes insurance policies and insurance Contracts issued, executed or otherwise in effect both before and after the Distribution Date).

(171) “Prior Transaction Agreement Notice Recipient” shall have the meaning set forth in Section 6.2(d).

(172) “Prior Transaction Agreement Notifying Party” shall have the meaning set forth in Section 6.2(d).

(173) “Prior Transaction Agreements” shall mean the DWDP SDA, Corteva Letter Agreement, DWDP EMA, DWDP TMA, MOU, Neptune SDA and the agreements set forth on Schedule 1.1(173).

(174) “Privilege” shall have the meaning set forth in Section 9.7(a).

(175) “Privilege Waiver Negotiation Period” shall have the meaning set forth in Section 9.7(c)(iv).

(176) “Privilege Waiver Notice” shall have the meaning set forth in Section 9.7(c)(v).

(177) “Privilege Waiver Objection Notice” shall have the meaning set forth in Section 9.7(c)(i).

(178) “Privilege Waiver Request” shall have the meaning set forth in Section 9.7(c)(i).

(179) “Privileged Information” shall have the meaning set forth in Section 9.7(a).

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(180) “Pro Forma Operating EBITDA” shall have the meaning set forth in the Corteva Letter Agreement.

(181) “Processing” (and its cognates) shall mean, in addition to any definition for any corollary term provided by Data Protection Laws, any operation or set of operations which is performed on Personal Data or on sets of Personal Data, whether or not by automated means, such as collection, recording, organization, structuring, storage, adaptation or alteration, retrieval, consultation, use, disclosure by transmission, dissemination or otherwise making available, alignment or combination, restriction, erasure or destruction.

(182) “Product Supply Agreements” shall mean the Product Supply Agreements set forth on Schedule 1.1(182).

(183) “Public Reports” shall have the meaning set forth in Section 5.1(d).

(184) “Trust” shall have the meaning set forth in Section 3.2.

(185) “Raw Materials Supply Agreements” shall mean the Raw Materials Supply Agreements set forth on Schedule 1.1(185).

(186) “Records” shall mean any Contracts, documents, books, records or files.

(187) “Registration Data” shall mean all studies, data, raw data, reports, reviews or information, in paper, electronic or other format, submitted to, or generated for submission but not submitted to, or received from, a Governmental Entity (including by or through a third-party consultant), with the aim to apply for, obtain, extend or maintain a Registration, including any internal or external correspondence regarding a Registration, technical information on the product’s chemistry and manufacture, toxicology, metabolism and toxicokinetics, occupational health and safety and environmental effects, including any Good Laboratory Practice data, biological data and local data, regulatory defense strategy documents, modelling, risk assessments, public interest or other benefits documents, as well as any rights for data compensation under applicable Law.

(188) “Registrations” shall mean all registrations, consents, approvals, licenses or other authorizations required by applicable Law and/or granted by or from any Governmental Entity which permit the manufacture for commercial sale, sale or distribution of a product.

(189) “Regulatory Matters Agreement” shall mean that certain Regulatory Matters Agreement, dated as of the date hereof, by and between RemainCo and ElectronicsCo.

(190) “Related” shall mean, with respect to any Business, primarily or exclusively related to, used in or held for use in the conduct of such Business.

(191) “Release” shall mean any release, spill, emission, discharge, leaking, pumping, injection, deposit, disposal, dispersal, leaching or migration into the indoor or outdoor environment (including ambient air, surface water, groundwater and surface or subsurface strata) or into or out of any property, including the movement of Hazardous Substances through or in the air, soil, surface water, groundwater or property.

(192) “Relevant Site Party” shall mean, as between members of the RemainCo Group and ElectronicsCo Group, the member of either Group that, as of the Distribution, holds fee title or the highest priority lease from a third party as between the RemainCo Group and the ElectronicsCo Group.

(193) “RemainCo” shall have the meaning set forth in the preamble hereto.

(194) “RemainCo Accounts” shall have the meaning set forth in Section 2.11(a).

(195) “RemainCo Assets” shall mean any and all right, title and interest in and to the following Assets of (x) any member of the ElectronicsCo Group at the time of the Distribution, and (y) any member of the RemainCo Group at the time of the Distribution (provided, however, that RemainCo Assets shall not include Tax Assets, which shall be governed by the Tax Matters Agreement, or Assets allocated pursuant to the Employee Matters Agreement, which shall be governed thereby):

(i) (A) all interests in the capital stock of, or any other equity interests in, the members of the RemainCo Group (other than RemainCo), including those set forth on Schedule 1.1(204), and (B) the capital stock and other equity interests set forth on Schedule 1.1(195)(i)(B) of certain other Persons, and, in each case (clauses (A) and (B)), any and all rights related thereto;

(ii) the Assets set forth on Schedule 1.1(195)(ii);

(iii) any and all rights and interests of the RemainCo Group under this Agreement, including any payments owed to RemainCo pursuant to Section 2.12;

(iv) (A) all rights, title and interest in and to the owned real property set forth on Schedule 1.1(195)(iv)(A), including, in each case, all land and land improvements, structures, buildings and building improvements, tidelands or other marine leases, other improvements, fixtures, rights of ingress and egress, rights under any covenants, conditions and/or restrictions, all contract rights, if any, relating to the operation of the land or any improvements thereon, all riparian rights, surface and underground water rights, and any and all other water rights pertaining to the land, and any and all licenses, permits, registrations, approvals and authorizations which have been issued by any Governmental Entity related to the land and all easements and rights of way pertaining thereto or accruing to the benefit thereof and appurtenances located thereon or associated therewith (except to the extent otherwise set forth on Schedule 1.1(195)(iv)(A) under the heading “Other Parties in Possession”) (the “RemainCo Specified Owned Real Property”) and (B) all rights, title and interest in, and to and under the leases or subleases of the real property set forth on Schedule 1.1(195)(iv)(B), including, in each case, to the extent provided for in such leases, any land and land improvements, structures, buildings and building improvements, tidelands or other marine leases, other improvements, fixtures, rights of ingress and egress, rights under any covenants, conditions and/or restrictions, all contract rights, if any, relating to the operation of the land or any improvements thereon, all riparian rights, surface and underground water rights, and any and all other water rights pertaining to the land, and any and all licenses, permits, registrations, approvals and authorizations which have been issued by any Governmental Entity related to the land and all easements and rights of way pertaining thereto or accruing to the benefit thereof and appurtenances (except to the extent otherwise set forth on Schedule 1.1(195)(iv)(B) under the heading “Other Parties in Possession”) (the “RemainCo Specified Leased Real Property”);



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(v) any and all RemainCo Shared Contracts; provided, however, that any such RemainCo Shared Contracts shall be subject to Section 2.2(d);

(vi) any and all Intellectual Property (excluding IT Assets, which for clarity is governed by Section 1.1(195)(viii)) owned by RemainCo or ElectronicsCo, or any of their respective Affiliates, that is (A) not Related to the ElectronicsCo Business (excluding Intellectual Property set forth on Schedule 1.1(61)(vii)), (B) a RemainCo House Mark, or (C) set forth on Schedule 1.1(195)(vi);

(vii) any and all Assets in respect of accruals, counterclaims, insurance claims, rights to coverage under applicable insurance policies, warranties, contractual indemnities, control rights and other rights similar to the foregoing, in each case, to the extent related to any RemainCo Liability, including those set forth on Schedule 1.1(195)(vii) (subject, in each case, to Article VI and Article VII);

(viii) any and all IT Assets owned, licensed to or by, or held by RemainCo or ElectronicsCo, or any of their respective Affiliates, that are (A) not exclusively related to, used or held for use in the conduct of the ElectronicsCo Business (excluding IT Assets set forth on Schedule 1.1(61)(ix)), or (B) set forth on Schedule 1.1(195)(viii);

(ix) all RemainCo Contracts;

(x) other than Intellectual Property and IT Assets, any and all Information exclusively related to the RemainCo Business, and to the extent not exclusively related to the RemainCo Business, any and all (A) Information to the extent related to any RemainCo Asset or RemainCo Liability, (B) Information to the extent related to any Legacy Liability, or any Asset or Liability allocated between the RemainCo Group and the ElectronicsCo Group based on their respective Applicable Percentages, (C) books and records held at the RemainCo Specified Owned Real Property, the RemainCo Specified Leased Real Property and the RemainCo Real Property (unless at a portion of such site leased to a different Group pursuant to an Intergroup Lease) and (D) corporate or similar legal entity books and records of any Person described in clause (i) of this definition of “RemainCo Assets”;

(xi) the right to receive the ElectronicsCo Cash Distribution;

(xii) any and all proceeds in respect of any divestitures for which a definitive Contract has been executed by RemainCo or any of its Subsidiaries prior to the Distribution

(xiii) the Assets set forth on Schedule 1.1(195)(xiii) (the “Intentionally Delayed RemainCo Assets”) (clauses (i) through (xiii)), the “Specified RemainCo Assets”);

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(xiv) unless constituting a Specified ElectronicsCo Asset or a Specified RemainCo Asset:

(a) any and all rights, title and interest in, and to, any Asset (excluding IT Assets and Intellectual Property) of RemainCo or any of its Subsidiaries as of immediately prior to the Distribution that is not related to any Business (other than in a de minimis respect) (e.g., corporate or enterprise-wide Assets), including those set forth on Schedule 1.1(195)(xiv)(a), and excluding those set forth on Schedule 1.1(61)(xiii)(a);

(b) (I) all Cash and Cash Equivalents, notes, interest receivables and other financial assets owned by any member of the RemainCo Group, and (II) all derivative instruments owned by any member of the RemainCo Group;

(c) (I) all accounts and notes receivable to the extent related to the RemainCo Business (provided, however, that any such accounts receivable represented by an invoice of less than \$500,000 shall not constitute RemainCo Assets pursuant to this clause (c) if the aggregate amount of accounts receivable related to any Business in more than a de minimis respect represented by such invoice is Related to the ElectronicsCo Business), and (II) all accounts receivable (other than those not related to any Business in more than a de minimis respect) represented by an invoice of less than \$500,000 if the aggregate amount of accounts receivable related to any Business in more than a de minimis respect represented by such invoice is Related to the RemainCo Business;

(d) the Applicable RemainCo Percentage of all accounts and notes receivable in respect of goods or services sold or provided by RemainCo or its Subsidiaries that are not related to any Business (other than in a de minimis respect), including those set forth on Schedule 1.1(195)(xiv)(d);

(e) all credits, prepaid expenses, rebates, deferred charges, advance payments, security deposits and prepaid items, in each case to the extent they are (I) used or held for use in, or arise out of, the operation or conduct of the RemainCo Business (including, for the avoidance of doubt, such portion of any credits, prepaid expenses, rebates, deferred charges, advance payments, security deposits and prepaid items of the ElectronicsCo Group to the extent they are used or held for use in, or arise out of, the operation or conduct of the RemainCo Business), and/or (II) owned by a member of the RemainCo Group, and are not related to any Business (other than in a de minimis respect), including those set forth on Schedule 1.1(195)(xiv)(e)(II);

(f) except for furniture, all tangible personal property and interests therein (including machinery, tools, equipment and vehicles), in each case, that is not related to any Business (other than in a de minimis respect), other than those set forth on Schedule 1.1(195)(xiii)(f);

(g) all furniture that is not related to any Business (other than in a de minimis respect) if, at the time of the Distribution, such furniture is held at (I) any RemainCo Specified Owned Real Property or, except as may be provided pursuant to the terms of an Intergroup Lease or lease with any Person other than the Parties and their respective Group members and Affiliates, RemainCo Specified Leased Real Property or RemainCo Real Property, in each case, other than any site set forth on Schedule 1.1(61)(xiii)(g), or (II) any site set forth on Schedule 1.1(195)(xiv)(g);

(h) any and all Information of RemainCo or any of its Subsidiaries as of immediately prior to the Distribution (other than (x) Intellectual Property and (y) IT Assets) that is not related to any Business (other than in a de minimis respect), including Information set forth on Schedule 1.1(195)(xiv)(h); and

(i) all rights, claims, causes of action and credits to the extent relating to any RemainCo Asset that do not relate to any Business (other than in a de minimis respect) and do not relate to any ElectronicsCo Liability (other than in a de minimis respect), including those arising under any guaranty, warranty, indemnity, right of recovery, right of set-off or similar right, including those set forth on Schedule 1.1(195)(xiv)(i) (subject, in each case, to Article VI and Article VII);

(xv) if and to the extent not addressed by the Assets described in clauses (i) through (xiv) of this definition, any and all Assets Related to the RemainCo Business, including in the following categories, but, in each case, excluding Intellectual Property, IT Assets, the Specified ElectronicsCo Assets and the Assets described in clause (61)(xiii) of the definition of "ElectronicsCo Assets":

(a) (I) all rights, title and interest in and to the owned real property Related to the RemainCo Business, including, in each case, all land and land improvements, structures, buildings and building improvements, tidelands or other marine leases, other improvements, fixtures, rights of ingress and egress, rights under any covenants, conditions and/or restrictions, all contract rights, if any, relating to the operation of the land or any improvements thereon, all riparian rights, surface and underground water rights, and any and all other water rights pertaining to the land, and any and all licenses, permits, registrations, approvals and authorizations which have been issued by any Governmental Entity related to the land and all easements and rights of way pertaining thereto or accruing to the benefit thereof and appurtenances located thereon or associated therewith, and (II) all rights, title and interest in, and to and under the leases or subleases of the real property Related to the RemainCo Business, including, in each case, to the extent provided for in such leases, any land and land improvements, structures, buildings and building improvements, tidelands or other marine leases, other improvements, fixtures, rights of ingress and egress, rights under any covenants, conditions and/or restrictions, all contract rights, if any, relating to the operation of the land or any improvements thereon, all riparian rights, surface and underground water rights, and any and all other water rights pertaining to the land, and any and all

licenses, permits, registrations, approvals and authorizations which have been issued by any Governmental Entity related to the land and all easements and rights of way pertaining thereto or accruing to the benefit thereof and appurtenances (collectively, the “RemainCo Real Property”);

(b) except for IT Assets and RemainCo Inventory, any and all tangible personal property and interests therein, including machinery, furniture, tools, equipment, vehicles, in each case that are Related to the RemainCo Business;

(c) any and all raw materials, works-in-process, supplies, ingredients, inputs, parts, packaging, finished goods and products and other inventories, in each case that are Related to the RemainCo Business or that are not related to any Business in more than a de minimis respect (the “RemainCo Inventory”);

(d) any and all Consents, registrations and Registration Data, in each case, that is Related to the RemainCo Business and any and all Consents, registrations and Registration Data that are not related to any Business in more than a de minimis respect;

(e) any and all Information (other than Intellectual Property and IT Assets) that is Related to the RemainCo Business; and

(f) any and all interests in the capital stock of, or other equity interests in, any Person that is not a member of the ElectronicsCo Group or RemainCo Group that is Related to the RemainCo Business.

In the event of any inconsistency or conflict which may arise in the application or interpretation of any of the foregoing provisions and the provisions of the definition of ElectronicsCo Assets, such inconsistency shall be resolved using the following order of precedence: (i) any Specified RemainCo Asset listed on Schedules 1.1(204), 1.1(195)(i)(B), 1.1(195)(ii), 1.1(195)(iv)(A) and (B) (except to the extent otherwise set forth on Schedules 1.1(195)(iv)(A) and (B), under the heading “Other Parties in Possession”), 1.1(195)(vi), 1.1(195)(vii), 1.1(195)(viii) and 1.1(195)(xiii) (to the extent allocated to RemainCo) constitutes a RemainCo Asset, (ii) any Contract listed on Schedule 1.1(210) constitutes a RemainCo Asset, (iii) any Shared Contract listed on Schedule 1.1(214) constitutes a RemainCo Asset (subject to Section 2.2(d)), and (iv)(a) any Asset listed on Schedule 1.1(195)(xiv)(a) shall give rise to a rebuttable presumption in favor of RemainCo that such Asset is owned by RemainCo or any of its Subsidiaries as of immediately prior to the Distribution and is not related to any Business (other than in a de minimis respect), (b) any Asset listed on Schedule 1.1(195)(xiv)(d) shall give rise to a rebuttable presumption in favor of RemainCo that such Asset is not related to any Business (other than in a de minimis respect), (c) any Asset listed on Schedule 1.1(195)(xiv)(e)(II) shall give rise to a rebuttable presumption in favor of RemainCo that such Asset is used or held for use in, or arises out of, the operation or conduct of RemainCo or any of its Subsidiaries as of immediately prior to the Distribution, is owned by a member of the RemainCo Group and is not related to any Business (other than in a de minimis respect), (d) any Asset listed on Schedule 1.1(195)(xiv)(f) shall give rise to a rebuttable presumption in favor of RemainCo that such Asset is not related to any Business (other than in a de minimis respect), (e) any furniture at any site set forth on

Schedule 1.1(195)(xiv)(g) shall give rise to a rebuttable presumption in favor of RemainCo that such furniture is not related to any Business (other than in a de minimis respect), (f) any Asset listed on Schedules 1.1(195)(xiv)(h) shall give rise to a rebuttable presumption in favor of RemainCo that such Asset is of RemainCo or any of its Subsidiaries as of immediately prior to the Distribution and is not related to any Business (other than in a de minimis respect) and (g) any Asset listed on Schedule 1.1(195)(xiv)(i) shall give rise to a rebuttable presumption in favor of RemainCo that such Asset is not related to any Business (other than in a de minimis respect) and is not related to any ElectronicsCo Liability (other than in a de minimis respect). Notwithstanding anything to the contrary herein, this Agreement and the Ancillary Agreements do not purport to transfer ownership of any of the Parties' insurance policies, and any assignment of rights to coverage under such insurance policies is governed by Article XI herein.

(196) "RemainCo Business" shall mean all businesses, operations and activities (whether covered independently or in association with one or more third parties through a partnership, joint venture or other mutual enterprise) other than the ElectronicsCo Business, in each case as conducted prior to the Distribution Date by any member of the ElectronicsCo Group or RemainCo Group (or any of their respective predecessors), including the following lines of business: Healthcare (which, for avoidance of doubt, includes Liveo™, Spectrum Medical; Donatelle Plastics; and Tyvek® (excluding HomeWrap™)); Diversified Industrials (which, for avoidance of doubt, includes Spectrum Foods and Industrial (F&I); Auto Adhesives; Multibase®; Tedlar®; Molykote®; Vespel®; Artistri®; Cyrel® Packaging Graphics; Authentication Systems; Tyvek® HomeWrap™; Typar®; Tychem®; Hybrid Membrane Technologies (HMT™); Performance Building Solutions; Corian® Decorative Surfaces; and the meta-aramid and para-aramid fiber, paper, pulp, yarn, fibrils, rope, floc, fabrics, staple and pressboard businesses (which, for the avoidance of doubt, includes Nomex®, Kevlar®, Kevlar® EXO™ and Tensylon® product lines)); and Water Solutions (which, for avoidance of doubt, includes Ultrafiltration; Reverse Osmosis Membranes; Ion Exchange; Systems; and Filtration).

(197) "RemainCo Common Stock" shall mean the issued and outstanding shares of Common Stock, par value \$0.01 per share, of RemainCo.

(198) "RemainCo Contracts" shall mean any and all Contracts to which RemainCo or any of its Subsidiaries is a party or by which it or any of its Subsidiaries or any of their respective Assets is bound, whether or not in writing, which fall within any of the following categories:

(i) any and all Contracts, including any and all Prior Transaction Agreements, other than (A) the ElectronicsCo Contracts, (B) the ElectronicsCo Shared Contracts, (C) the ElectronicsCo Specified Prior Transaction Agreements and (iv) the ElectronicsCo Vested Prior Transaction Rights; provided, however, that (x) any RemainCo Shared Contracts (including the Severable Prior Transaction Agreements) shall be subject to Section 2.2(d) and (y) any Shared Prior Transaction Agreements shall be subject to Article VI;

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(ii) any and all Contracts to which RemainCo or any of its Subsidiaries was a party as of the time of the Distribution (and any amendments, extensions or replacements thereof) that are not related in any respect (other than in a de minimis respect) to any Business, other than the ElectronicsCo Specified Corporate Contracts (the “RemainCo Specified Corporate Contracts”)

(199) “RemainCo Counsel” shall have the meaning set forth in Section 9.8.

(200) “RemainCo CSIs” shall have the meaning set forth in Section 2.10(d).

(201) “RemainCo Discontinued and/or Divested Operations and Business Liabilities” shall mean the Applicable RemainCo Percentage of any and all Discontinued and/or Divested Operations and Business Liabilities.

(202) “RemainCo Environmental Liabilities” shall mean the Liabilities described in clauses (v), (viii), (ix), (x), (xi) and (xiv) of the definition of RemainCo Liabilities.

(203) “RemainCo Financing Arrangements” shall mean the financing arrangements described on Schedule 1.1(203).

(204) “RemainCo Group” shall mean RemainCo and each Person (other than any member of the ElectronicsCo Group) that is a direct or indirect Subsidiary of RemainCo immediately prior to the Distribution (but after giving effect to the Internal Reorganization), and each Person that becomes a Subsidiary of RemainCo following the Distribution, which, for the avoidance of doubt, shall include those Persons identified as such on Schedule 1.1(204) (and shall not include the Persons on Schedule 1.1(71)).

(205) “RemainCo House Marks” shall mean the Trademarks set forth on Schedule 1.1(205), and any and all derivatives, abbreviations, translations, localizations and other variations of any of the foregoing and any confusingly similar Trademarks.

(206) “RemainCo Indemnitees” shall mean each member of the RemainCo Group and each of their Affiliates from and after the Effective Time and each member of the RemainCo Group’s and their respective current, former and future Affiliates’ respective directors, officers, employees and agents and each of the heirs, executors, successors and assigns of any of the foregoing.

(207) “RemainCo Inventory” shall have the meaning set forth in Section 1.1(195)(xv)(c).

(208) “RemainCo Liabilities” shall mean any and all Liabilities of (x) any member of the ElectronicsCo Group at the time of the Distribution, and/or (y) any member of the RemainCo Group at the time of the Distribution, in the following categories, in each case, regardless of (1) when or where such Liabilities arose or arise, (2) where or against whom such Liabilities are asserted or determined, (3) regardless of whether arising from or alleged to arise from negligence, gross negligence, recklessness, violation of Law, fraud or misrepresentation by any member of the ElectronicsCo Group or RemainCo Group, as the case may be, or any of their past or present respective directors, officers, employees, agents, Subsidiaries or Affiliates, and (4) which entity is named in any Action associated with any Liability (except for Liabilities related to Taxes and Employee Related Liabilities which are governed exclusively by the Tax Matters Agreement and the Employee Matters Agreement, respectively):

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(i) any and all Liabilities that are expressly assumed by or allocated to the RemainCo Group pursuant to this Agreement or any Ancillary Agreement, including any obligations and Liabilities of any member of the RemainCo Group under this Agreement or any Ancillary Agreement, including those pursuant to Section 12.5 hereof;

(ii) any and all Liabilities (including under applicable federal and state securities Laws) relating to, arising out of or resulting from (A) the Financing Disclosure Documents in connection with any offer for sale or registration of the Transfer or distribution of securities or indebtedness of the RemainCo Group, including in connection with the RemainCo Financing Arrangements, (B) the Financing Disclosure Documents in connection with any offer for sale or registration of the Transfer or distribution of securities or indebtedness of the RemainCo Group, including in connection with the RemainCo Financing Arrangements, except, in each of clauses (A) and (B), for statements expressly relating to the ElectronicsCo Business, or (C) the RemainCo Financing Arrangements;

(iii) any and all Liabilities arising out of Inventor Remuneration to the extent related to (A) the Intellectual Property constituting a RemainCo Asset (other than any discrete and reasonably identifiable part thereof solely attributable to the use or sublicense of such Intellectual Property by any member of the ElectronicsCo Group as Licensee (as such term is defined in the IP Cross-License Agreement) under the IP Cross-License Agreement), or (B) the discrete and reasonably identifiable part of the Intellectual Property constituting an ElectronicsCo Asset solely attributable to the use or sublicense of such Intellectual Property by any member of the RemainCo Group as Licensee (as such term is defined in the IP Cross-License Agreement) under the IP Cross-License Agreement;

(iv) any and all Specified Transaction Expenses that, in the aggregate, do not exceed the Specified Transaction Expenses Threshold;

(v) the Applicable RemainCo Percentage of any and all DWDP Legacy Liabilities;

(vi) any and all of the Liabilities set forth on Schedule 1.1(208)(vi);

(vii) any and all of the Liabilities set forth on Schedule 1.1(208)(vii) ("RemainCo Designated Liabilities") which do not constitute Environmental Liabilities;

(viii) other than DWDP Legacy Liabilities (which for clarity is governed by Section 1.1(208)(v)), the Liabilities described in clause (xiv) of this definition (which for clarity is governed by Section 1.1(208)(xiv)), and Shared DuPont-Third Party Real Property Liabilities (which for clarity is governed by Section 1.1(208)(x)), any and all RemainCo Designated Liabilities which constitute Environmental Liabilities to the extent relating to, arising out of or resulting from the real property set forth on Schedule 1.1(208)(viii) (the "Specified Environmental RemainCo Designated Liabilities");

(ix) other than Specified Environmental RemainCo Designated Liabilities (which for clarity is governed by Section 1.1(208)(viii)), the Applicable RemainCo Percentage of any and all Legacy PFAS Liabilities;

(x) other than DWDP Legacy Liabilities (which for clarity is governed by Section 1.1(208)(v)), the Liabilities described in clause (xiv) of this definition (which for clarity is governed by Section 1.1(208)(xiv)), and Legacy PFAS Liabilities (which for clarity is governed by Section 1.1(208)(ix)), and subject to the proviso in Section 1.1(208)(xi)(C), the Applicable RemainCo Percentage of any and all Shared DuPont-Third Party Real Property Liabilities;

(xi) other than DWDP Legacy Liabilities (which for clarity is governed by Section 1.1(208)(v)), Specified Environmental RemainCo Designated Liabilities (which for clarity is governed by Section 1.1(208)(viii)), Legacy PFAS Liabilities (which for clarity is governed by Section 1.1(208)(ix)), the Liabilities described in clause (xiv) of this definition (which for clarity is governed by Section 1.1(208)(xiv)), and Shared DuPont-Third Party Real Property Liabilities (which for clarity is governed by Section 1.1(208)(x)). (A) the Applicable ElectronicsCo Percentage of any and all RemainCo Discontinued and/or Divested Operations and Business Liabilities that constitute Environmental Liabilities set forth on Schedule 1.1(208)(xi)(A); (B) Environmental Liabilities set forth on Schedule 1.1(208)(xi)(B); (C)(1) any Environmental Liabilities to the extent relating to, arising out of or resulting from any RemainCo Real Property, RemainCo Specified Owned Real Property or RemainCo Specified Leased Real Property, and (2) any and all Off-Site Environmental Liabilities to the extent relating to or arising out of Hazardous Substances or wastes generated at RemainCo Real Property, RemainCo Specified Owned Real Property or RemainCo Specified Leased Real Property, in each of clauses (1) and (2), to the extent a member of the RemainCo Group is the Relevant Site Party of such RemainCo Real Property, RemainCo Specified Owned Real Property or RemainCo Specified Leased Real Property; provided, however, that any such Environmental Liabilities to the extent relating to, arising out of or resulting from other than those real properties set forth in Schedule 1.1(208)(xi)(C) shall instead be to the extent relating to, arising out of or resulting from the RemainCo Business; and (D) the Applicable RemainCo Percentage of any and all Environmental Liabilities to the extent relating to, arising out of or resulting from the activities, operations or businesses of past, present or future third party tenants located at Experimental Station;

(xii) any and all RemainCo Discontinued and/or Divested Operations and Business Liabilities which do not constitute Environmental Liabilities;

(xiii) any and all Liabilities (other than Corporate Trade Payables) primarily related to, arising out of or resulting from the RemainCo Specified Corporate Contracts;

(xiv) the Applicable RemainCo Percentage of any and all Liabilities in respect of the funding obligations of RemainCo under the MOU, including with respect to the funding of the escrow account thereunder;



(xv) any and all Liabilities for Indebtedness of the type described in clauses (a), (d) and (g) (but in case of clause (g) solely with respect to clauses (a) and (d)) of the definition of Indebtedness of RemainCo or any of its Subsidiaries that was incurred by any member of the RemainCo Group (and any such Indebtedness guaranteed by any of RemainCo's Subsidiaries that is a member of the RemainCo Group), including those set forth on Schedule 1.1(208)(xv) (clauses (i) through (xv) of this Section 1.1(208), the "Specified RemainCo Liabilities";

(xvi) unless constituting a Specified ElectronicsCo Liability or a Specified RemainCo Liability,

(a) (I) any and all checks issued but not drawn and accounts payable to the extent related (other than in de minimis respects) to the RemainCo Business (provided, however, that any such accounts payable represented by an invoice of less than \$500,000 shall not constitute RemainCo Liabilities pursuant to this clause (a) if the aggregate amount of accounts payable represented by such invoice is Related to the ElectronicsCo Business), and (II) all accounts payable represented by an invoice of less than \$500,000 if the aggregate amount of accounts payable represented by such invoice is Related to the RemainCo Business (except for any such accounts payable represented by such invoice that are not related to any Business in more than a de minimis respect);

(b) the Applicable RemainCo Percentage of the Corporate Trade Payables, including those set forth on Schedule 1.1(208)(xvi)(b); and

(c) the Applicable RemainCo Percentage of any Specified DuPont Shared Liability;

(xvii) if and to the extent not addressed by the Liabilities described in clauses (i) through (xvi) of this definition, any and all Liabilities to the extent relating to, arising out of or resulting from the RemainCo Business, including in the following categories, but in each case, excluding the Specified ElectronicsCo Liabilities and the Liabilities described in clause (xvii) of the definition of ElectronicsCo Liabilities:

(a) Any and all Liabilities related to, arising out of or resulting from any Action to the extent related to the RemainCo Business, including such Actions listed on Schedule 1.1(208)(xvii)(a);

(b) Any and all Liabilities to the extent related to, arising out of or resulting from any of the RemainCo Contracts; and

(c) Any and all Liabilities to the extent related to, arising out of or resulting from any of the RemainCo Assets (other than ElectronicsCo Liabilities).

In the event of any inconsistency or conflict which may arise in the application or interpretation of any of the foregoing provisions and the provisions of the definition of ElectronicsCo Liabilities, such inconsistency shall be resolved using the following order of precedence: (i) the Applicable RemainCo Percentage of any DWDP Legacy Liability or any Liability described in Section 1.1(208)(xiv) constitutes a RemainCo Liability, (ii) any Specified RemainCo Liability listed on Schedules 1.1(208)(vi), 1.1(208)(vii), 1.1(208)(viii), 1.1(208)(xi)(A), 1.1(208)(xi)(B), 1.1(208)(xi)(C), and 1.1(208)(xv) constitutes a RemainCo Liability, (iii) the Applicable RemainCo Percentage of any Legacy Liability (other than a DWDP Legacy Liability) constitutes a RemainCo Liability, (iv) any Liability listed on Schedule 1.1(208)(xvi)(b) shall give rise to a rebuttable presumption in favor of RemainCo that such Liability is not related to any Business (other than in a de minimis respect), and (v) any Liability listed on Schedule 1.1(208)(xvii)(a) shall give rise to a rebuttable presumption in favor of RemainCo that such Liability relates to the RemainCo Business and/or RemainCo Assets. In addition, the allocation set forth in clauses (v), (viii), (ix), (x), (xi) and (xiv) of this definition of “RemainCo Liabilities” is not intended to affect or impact the share of any such Environmental Liability attributable to third parties.

(209) “RemainCo Shared Contracts” shall mean any and all Shared Contracts that are not ElectronicsCo Shared Contracts, ElectronicsCo Specified Corporate Contracts or any RemainCo Specified Corporate Contracts.

(210) “RemainCo Specified Prior Transaction Agreements” shall mean any and all Prior Transaction Agreements exclusively related to the RemainCo Business, RemainCo Assets and/or RemainCo Liabilities, including those set forth on Schedule 1.1(210).

(211) “Response Action” shall have the meaning set forth in Section 8.10(b)(i).

(212) “Rules” shall have the meaning set forth in Section 10.1(c).

(213) “Security Interest” shall mean any mortgage, security interest, pledge, lien, charge, claim, option, right to acquire, voting or other restriction, right-of-entry, covenant, condition, easement, encroachment, restriction on transfer, or other encumbrance of any nature whatsoever, excluding restrictions on transfer under securities Laws and licenses of Intellectual Property.

(214) “Severable Prior Transaction Agreements” shall mean the Prior Transaction Agreements set forth on Schedule 1.1(214).

(215) “Shared Contract” shall mean any Mixed Contract that (a) is not a Non-Shared Contract and (b) is not a Prior Transaction Agreement (other than the Severable Prior Transaction Agreements).

(216) “Shared DuPont-Third Party Real Property” means the real property set forth on Schedule 1.1(216).

(217) “Shared DuPont-Third Party Real Property Liabilities” shall have the meaning set forth in the definition of “ElectronicsCo Liabilities”.

(218) “Shared Permit” shall have the meaning set forth in Section 5.5(a).

(219) “Shared Prior Transaction Agreements” shall mean the Prior Transaction Agreements that are not (a) ElectronicsCo Specified Prior Transaction Agreements, (b) RemainCo Specified Prior Transaction Agreements or (c) Severable Prior Transaction Agreements, including those set forth on Schedule 1.1(219).

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(220) “Site Services Agreements” shall mean the Site Services Agreements set forth on Schedule 1.1(220).

(221) “Software” shall mean all computer programs (whether in source code, object code, or other form), software implementations of algorithms, and related documentation, including flowcharts and other logic and design diagrams, technical, functional and other specifications, and user and training materials to the extent related to any of the foregoing.

(222) “Sole Benefit Services” shall have the meaning set forth in Section 9.7(a).

(223) “Space Leases” shall mean the Space Leases set forth on Schedule 1.1(223).

(224) “Specified DuPont Shared Liabilities” shall mean:

(i) any and all Liabilities set forth on Schedule 1.1(224)(i); and

(ii) unless constituting a Specified ElectronicsCo Liability or Specified RemainCo Liability, any and all Liabilities to the extent relating to, arising out of or resulting from a general corporate matter of RemainCo related to occurrences on or prior to the Distribution Date, including any such Liabilities (including under applicable federal and state securities Laws) to the extent relating to, arising out of or resulting from:

(a) claims made by or on behalf of holders of any securities of RemainCo, in their capacities as such;

(b) any (x) form, report, statement, certifications or other document (including all exhibits, amendments and supplements thereto) (other than a Distribution Disclosure Document or Financing Disclosure Document) filed by RemainCo with the Commission on or prior to the Distribution Date, including the financial statements included therein (other than for Liabilities related to any such forms, reports, statements, certifications or other documents, in each case filed in connection with the Internal Reorganization, specifically relating to the ElectronicsCo Business or the RemainCo Business, as the case may be) or (y) Financing Disclosure Documents in respect of occurrences prior to the Distribution Date;

(c) the maintenance of the books and records, corporate compliance and other corporate-level actions and oversight of RemainCo; and

(d) (x) indemnification obligations to any current or former director or officer of RemainCo in their capacity as such in respect of occurrences prior to the Distribution Date or (y) any claims for breach of fiduciary duties brought against any current or former directors or officers of RemainCo, in their capacities as such in respect of occurrences prior to the Distribution Date, in each case, relating to any acts, omissions or events on or prior to the Distribution Date.

In the case of any Liability a portion of which relates to occurrences on or prior to the Distribution Date and a portion of which relates to occurrences after the Distribution Date, only that portion that relates to occurrences on or prior to the Distribution Date shall be considered a Specified DuPont Shared Liability; and with respect to the portion of such Liability that relates to occurrences after the Distribution Date, such Liability shall be allocated in accordance with the definitions of ElectronicsCo Liability or RemainCo Liability, as the case may be. For purposes of clarification of the foregoing, the Parties agree that no Liability relating to, arising out of or resulting from any obligation of any Person to perform the executory portion of any Contract existing as of the Distribution Date shall be deemed to be a Specified DuPont Shared Liability.

Notwithstanding anything to the contrary herein, Specified DuPont Shared Liabilities shall not include any Liabilities that are related or attributable to or arising in connection with Taxes or Tax Returns.

(225) “Specified ElectronicsCo Assets” shall have the meaning set forth in the definition of “ElectronicsCo Assets”.

(226) “Specified ElectronicsCo Liabilities” shall have the meaning set forth in the definition of “ElectronicsCo Liabilities”.

(227) “Specified Environmental ElectronicsCo Designated Liabilities” shall have the meaning set forth in the definition of “ElectronicsCo Liabilities”.

(228) “Specified Environmental RemainCo Designated Liabilities” shall have the meaning set forth in the definition of “RemainCo Liabilities”.

(229) “Specified RemainCo Assets” shall have the meaning set forth in the definition of “RemainCo Assets”.

(230) “Specified RemainCo Liabilities” shall have the meaning set forth in the definition of “RemainCo Liabilities”.

(231) “Specified Settlement Expenses” shall mean those costs, fees and expenses set forth on Schedule 1.1(231).

(232) “Specified Transaction Expenses” shall mean those costs, premiums, fees and expenses set forth on Schedule 1.1(232).

(233) “Specified Transaction Expenses Threshold” shall mean the amount set forth on Schedule 1.1(233).

(234) “Subsidiary” shall mean with respect to any Person (a) a corporation, fifty percent (50%) or more of the voting or capital stock of which is, as of the time in question, directly or indirectly owned by such Person, and (b) any other partnership, joint venture, association, joint stock company, trust, unincorporated organization or other entity in which such Person, directly or indirectly, owns fifty percent (50%) or more of the equity or economic interest thereof or has the power to elect or direct the election of fifty percent (50%) or more of the members of the governing body of such entity or otherwise has control over such entity (*e.g.*, as the managing partner of a partnership).

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- (235) “Tax” or “Taxes” shall have the meaning set forth in the Tax Matters Agreement.
- (236) “Tax Assets” shall have the meaning set forth in the Tax Matters Agreement.
- (237) “Tax Benefit Payment” shall have the meaning set forth in Section 8.8(d).
- (238) “Tax Contest” shall have the meaning set forth in the Tax Matters Agreement.
- (239) “Tax Matters Agreement” shall mean the Tax Matters Agreement, dated as of the date hereof, by and between RemainCo and ElectronicsCo.
- (240) “Tax Return” shall have the meaning set forth in the Tax Matters Agreement.
- (241) “Taxing Authority” shall have the meaning set forth in the Tax Matters Agreement.
- (242) “Third Party Claim” shall have the meaning set forth in Section 8.4(a).
- (243) “Third Party Proceeds” shall have the meaning set forth in Section 8.8(a).
- (244) “TMODS License Agreement” shall mean that certain DuPont™ TMODES Dynamic Process Simulation Software Agreement, dated as of the date hereof, by and between RemainCo and ElectronicsCo.
- (245) “Trademarks” shall mean trademarks, certification marks, service marks, trade names, domain names, favicons, social media addresses, service names, trade dress and logos, including all goodwill associated therewith, in each case whether or not registered, and registrations and applications for registration thereof, and all reissues, extensions and renewals of any of the foregoing.
- (246) “Transaction Expenses” shall have the meaning set forth in Section 12.5.
- (247) “Transfer” shall have the meaning set forth in Section 2.2(b)(i) and the term “Transferred” shall have its correlative meaning.
- (248) “Transfer Taxes” shall mean any sales, use, transfer, real property transfer, registration, documentary, value added, stamp or other similar Taxes and related fees and costs.
- (249) “Transferred Industrial Real Property” shall have the meaning set forth in Section 2.7(b).
- (250) “Transition Services Agreements” shall mean those certain Transition Services Agreements, dated as of the date hereof, by and between (a) RemainCo, as provider, and ElectronicsCo, as recipient, and (b) RemainCo, as recipient, and ElectronicsCo, as provider.

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(251) “UK GDPR” shall have the meaning set forth in the definition of “Data Protection Laws”.

(252) “Umbrella Secrecy Agreement” shall mean that certain Umbrella Secrecy Agreement, dated as of the date hereof, by and between RemainCo and ElectronicsCo.

Section 1.2 References; Interpretation. For the purposes of this Agreement, (a) words in the singular shall be held to include the plural and vice versa, and words of one gender shall be held to include the other gender as the context requires; (b) references to the terms Article, Section, paragraph, clause, Exhibit and Schedule are references to the Articles, Sections, paragraphs, clauses, Exhibits and Schedules to this Agreement unless otherwise specified; (c) the terms “hereof”, “herein”, “hereby”, “hereto”, and derivative or similar words refer to this entire Agreement, including the Schedules and Exhibits hereto; (d) references to “\$” shall mean U.S. dollars; (e) the word “including” and words of similar import when used in this Agreement shall mean “including without limitation”, unless otherwise specified; (f) the word “or” shall not be exclusive (unless the context indicates otherwise); (g) references to “written” or “in writing” include in electronic form; (h) the Parties have each participated in the negotiation and drafting of this Agreement, and except as otherwise stated herein, if an ambiguity or question of interpretation should arise, this Agreement shall be construed as if drafted jointly by the Parties and no presumption or burden of proof shall arise favoring or burdening any Party by virtue of the authorship of any of the provisions in this Agreement; (i) a reference to any Person includes such Person’s successors and permitted assigns; (j) any reference to “days” means calendar days unless Business Days are expressly specified; (k) when calculating the period of time before which, within which or following which any act is to be done or step taken pursuant to this Agreement, the date that is the reference date in calculating such period shall be excluded and if the last day of such period is not a Business Day, the period shall end on the next succeeding Business Day; (l) any statute or Contract defined or referred to herein means such statute or Contract as from time to time amended, modified or supplemented, unless otherwise specifically indicated; (m) the use of the phrases “the date of this Agreement”, “the date hereof”, “of even date herewith” and terms of similar import shall be deemed to refer to the date set forth in the preamble to this Agreement; (n) the phrase “ordinary course of business” shall be deemed to be followed by the words “consistent with past practice” whether or not such words actually follow such phrase; (o) where a word or phrase is defined herein, each of its other grammatical forms shall have a corresponding meaning; and (p) any consent given by any Party pursuant to this Agreement shall be valid only if contained in a written instrument signed by such Party. Unless the context requires otherwise, references in this Agreement to “ElectronicsCo” shall also be deemed to refer to the applicable member of the ElectronicsCo Group, references to “RemainCo” shall also be deemed to refer to the applicable member of the RemainCo Group and, in connection therewith, any references to actions or omissions to be taken, or refrained from being taken, as the case may be, by ElectronicsCo or RemainCo shall be deemed to require ElectronicsCo or RemainCo, as the case may be, to cause the applicable members of the ElectronicsCo Group or the RemainCo Group, respectively, to take, or refrain from taking, any such action.

Section 1.3 Effective Time; Suspension.

(a) This Agreement shall be effective as of the Effective Time.

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(b) Notwithstanding Section 1.3(a) above, solely as between any of the Parties that are Affiliates, the provisions of, and the obligations under, this Agreement shall be suspended as between such Parties until the Distribution, other than for Sections 2.1, 2.2, 2.3, 2.11, 2.13, Article III, Article IV, Section 5.5 and Article XII, each of which will be effective as of the Effective Time.

## **ARTICLE II**

### **THE SEPARATION**

Section 2.1 General. Subject to the terms and conditions of this Agreement, each Party shall use, and shall cause the other members of its Group and its respective then-Affiliates to use, their respective reasonable best efforts to consummate the transactions contemplated hereby (including the Internal Reorganization), a portion of which have already been implemented prior to the date hereof.

#### Section 2.2 Transfer of Assets; Assumption and Satisfaction of Liabilities.

(a) Prior to the Effective Time, the Parties shall, and shall cause the other members of its Group and its respective then-Affiliates to, complete the Internal Reorganization (other than as set forth on Schedule 2.2).

(b) Prior to the Effective Time and, in each case, pursuant to the Conveyancing and Assumption Instruments and, in connection with the Internal Reorganization:

(i) Subject to Section 2.5 (*Transfers Not Effected on or Prior to the Effective Time; Transfers Deemed Effective as of the Effective Time*) and Section 2.2(d) (*Treatment of Shared Contracts*), RemainCo shall, and shall cause the other members of its Group to, as applicable, transfer, contribute, assign and/or convey or cause to be transferred, contributed, assigned and/or conveyed (“Transfer”) to ElectronicsCo or another member of the ElectronicsCo Group all of its and the other members of its Group’s right, title and interest in and to the ElectronicsCo Assets, and the applicable member(s) of the ElectronicsCo Group, as applicable, shall accept from RemainCo and the applicable members of the RemainCo Group, all of RemainCo’s and the other members of the RemainCo Group’s respective direct or indirect rights, title and interest in and to the ElectronicsCo Assets, respectively; and

(ii) Subject to Section 2.5 (*Transfers Not Effected on or Prior to the Effective Time; Transfers Deemed Effective as of the Effective Time*) and Section 2.2(d) (*Treatment of Shared Contracts*), ElectronicsCo shall, and shall cause the other members of its Group to, as applicable, Transfer to RemainCo or another member of the RemainCo Group all of its and the other members of its Group’s right, title and interest in and to the RemainCo Assets, and the applicable member(s) of the RemainCo Group, as applicable, shall accept from ElectronicsCo and the applicable members of the ElectronicsCo Group, all of ElectronicsCo’s and the other members of the ElectronicsCo Group’s respective direct or indirect rights, title and interest in and to the RemainCo Assets, respectively.

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(c) Assumption of Liabilities. Subject to Section 2.5 (*Transfers Not Effected on or Prior to the Effective Time; Transfers Deemed Effective as of the Effective Time*) and Section 2.2(d) (*Treatment of Shared Contracts*), (i) RemainCo shall, or shall cause a member of the RemainCo Group to, accept, assume (or, as applicable, retain) and perform, discharge and fulfill, in accordance with their respective terms (“Assume”), all of the RemainCo Liabilities, and (ii) ElectronicsCo shall, or shall cause a member of the ElectronicsCo Group to, Assume all of the ElectronicsCo Liabilities.

(d) Treatment of Shared Contracts. Without limiting the generality of the obligations set forth in Section 2.2(b):

(i) Unless the benefits of a Shared Contract are conveyed to the applicable Party (or member of its Group) pursuant to an Ancillary Agreement, (A) any Contract that is a Shared Contract, shall be assigned in part to the applicable member(s) of the applicable Group, if so assignable, or appropriately amended, bifurcated, replicated or otherwise modified prior to, on or after the Effective Time, so that each Party or the members of their respective Groups shall be entitled to the rights and benefits, and shall Assume the related portion of any Liabilities, inuring to their respective Businesses (each, a “Partial Assignment”); provided, however, that (x) in no event shall any member of either Group be required to assign (or amend) any Shared Contract in its entirety or to assign a portion of any Shared Contract (including any Policy) which is not assignable (or cannot be amended or otherwise modified) by its terms (including any terms imposing Consents or conditions on an assignment where such Consents or conditions have not been obtained or fulfilled) (including those set forth on Schedule 2.2(d)) or under applicable Law and (y) if any Shared Contract cannot be so partially assigned by its terms or otherwise, cannot be amended, bifurcated, replicated or otherwise modified, or if such assignment or amendment, bifurcation, replication or modification would impair the benefit the parties thereto derived from such Shared Contract, the Parties shall, and shall cause each of their respective Subsidiaries to, take such other reasonable and permissible actions to cause a member of the RemainCo Group or the ElectronicsCo Group, as the case may be, to, in each case, (I) receive the benefit of that portion of each Shared Contract that relates to the ElectronicsCo Business or the RemainCo Business, as the case may be (in each case, to the extent so related) as if such Shared Contract had been assigned to (or amended or otherwise modified for the benefit of) a member of the applicable Group pursuant to this Section 2.2(d) (including, enforcing on the applicable Group’s behalf any and all of such Group’s rights against such third party under such Shared Contract solely to the extent related to the applicable Group’s respective Business (or applicable portion thereof)) and (II) bear the burden of the corresponding Liabilities (including any Liabilities that may arise by reason of such arrangement) as if such Liabilities had been Assumed by a member of the applicable Group pursuant to this Section 2.2(d), including expenses related to enforcing rights under such Shared Contract against the third party counterparty thereto solely to the extent related to the applicable Group’s respective Business (or applicable portion thereof); and indemnifying each other Group against all Indemnifiable Losses to the extent arising out of any actions (or omissions to act) taken by such other Group with respect to such Shared Contract at the direction of such first Party (except to the extent arising out of or related to gross negligence, fraud or willful misconduct by such other



Group) (for the avoidance of doubt, in the event that any rights in connection with a Force Majeure Event or similar event are exercised under a Shared Contract, the benefits and burdens with respect to such Shared Contract (as modified by such Force Majeure Event or similar event) shall, if reasonably practicable, be shared proportionally or, if not reasonably practicable, in such other manner as would be most equitable, among the Groups related to such Contract (or in any other manner as may be agreed in good faith by the relevant Parties whose Group is related to such contract), in each case, to the extent so related to the ElectronicsCo Business or the RemainCo Business), and (B) to the extent that the Parties cannot effect a Partial Assignment in accordance with this Section 2.2(d), or cannot implement the arrangements set forth in clause (A), within one hundred and eighty (180) days of the Distribution Date, the Parties shall use commercially reasonable efforts to, if requested by any Party, seek mutually acceptable alternative arrangements (including subcontracting, sublicensing, subleasing or back-to-back agreement) for the purpose of allocating rights, liabilities and obligations to each Group under such Shared Contract reflecting the principles set forth in clause (A) of this provision (an “Acceptable Alternative Arrangement”).

(ii) Each Party shall, and shall cause the other members of its Group to, use its commercially reasonable efforts to obtain the required Consents to complete a Partial Assignment of any Shared Contract as contemplated by this Agreement. Notwithstanding anything herein to the contrary, no Partial Assignment of any Shared Contract or Acceptable Alternative Arrangement shall be completed if it would violate any applicable Law or the rights of any third party to such Shared Contract.

(iii) To the extent permitted by applicable Law, each of RemainCo and ElectronicsCo shall, and shall cause the members of its respective Group to, (A) treat for all Tax purposes the portion of each Shared Contract inuring to its respective Businesses as Assets owned by, and/or Liabilities of, as applicable, such Party or the members of such Party’s Group, as applicable, not later than the Distribution, and (B) neither report nor take any Tax position (on a Tax Return or otherwise) inconsistent with such treatment (unless required by a change in applicable Tax Law or good faith resolution of a Tax Contest).

(iv) With respect to Liabilities pursuant to, under or relating to a Shared Contract to the extent relating to occurrences from and after the Distribution, such Liabilities shall, unless otherwise allocated pursuant to this Agreement or any Ancillary Agreement, be allocated among RemainCo and ElectronicsCo as follows:

(A) If such Liability is incurred (x) exclusively in respect of the ElectronicsCo Business, such Liability shall be allocated to ElectronicsCo or the applicable member of its Group, or (y) exclusively in respect of the RemainCo Business, such Liability shall be allocated to RemainCo or the applicable member of its Group;

(B) If such Liability cannot be so allocated under clause (A) above, such Liability shall be allocated to RemainCo or ElectronicsCo, as the case may be, based on the relative proportions of total benefit received (over the term of the Shared Contract remaining as of the date of the Distribution) by the ElectronicsCo Business or the RemainCo Business, respectively, under the relevant Shared Contract after the Distribution; and

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(C) Notwithstanding the foregoing in clauses (A) and (B) above, each of ElectronicsCo or RemainCo shall be responsible for any and all such Liabilities to the extent arising from its (or its Subsidiary's) breach after the Distribution of the relevant Shared Contract.

(v) None of RemainCo, ElectronicsCo or any of the members of their respective Group or their Affiliates shall be required to commence any litigation or offer or pay any money or otherwise grant any accommodation (financial or otherwise) to any third party to (x) obtain any new Contract or Partial Assignment with respect to any Shared Contract, as the case may be or (y) obtain any Consent necessary to enter into an Acceptable Alternative Arrangement; provided, however, any Party to which the benefit of a new Contract, Partial Assignment or Acceptable Alternative Arrangement would inure pursuant to this Section 2.2(d) may request that the Party that is allocated such Shared Contract as an ElectronicsCo Asset or RemainCo Asset commence litigation, which request shall be considered in good faith by such Party; provided, further, that such Party's good faith determination not to commence litigation shall not in and of itself constitute a breach of this Section 2.2(d)(v), but the foregoing shall not preclude consideration of a Party's good faith for purposes of determining compliance with this Section 2.2(d)(v).

(vi) From and after the Distribution, the Party to whose Group a Shared Contract has been allocated shall not (and shall cause the other members of its Group not to), without the consent of the other Party (such consent not to be unreasonably withheld, conditioned or delayed) (x) waive any rights under such Shared Contract to the extent related to the Business, Assets or Liabilities of such other Party, (y) terminate (or consent to be terminated by the counterparty) such Shared Contract except in connection with (A) the expiration of such Shared Contract in accordance with its terms (it being understood, for the avoidance of doubt, that sending a notice of non-renewal to the counterparty to such Shared Contract in accordance with the terms of such Shared Contract is expressly permitted) or (B) a partial termination of such Shared Contract that would not reasonably be expected to impact any rights under such Shared Contract related to the Business, Assets or Liabilities of such other Party or any of its Subsidiaries, or (z) amend, modify or supplement such Shared Contract in a manner material (relative to the existing rights and obligations related to such other Party's Business, Assets or Liabilities under such Shared Contract) and adverse to the Business, Assets or Liabilities of such other Party or any of its Subsidiaries. From and after the Distribution, if a member of a Group (the "Notice Recipient") receives from a counterparty to a Shared Contract a formal notice of breach of such Shared Contract that would reasonably be expected to impact another Group, the Notice Recipient shall provide written notice to the other Party as soon as reasonably practicable (and in no event later than five (5) Business Days following receipt of such notice) and the Parties shall consult with respect to the actions proposed to be taken regarding the alleged breach. If a Group (the "Notifying Party") sends to a counterparty to a Shared Contract a

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formal notice of breach of such Shared Contract that would reasonably be expected to impact another Group, the Notifying Party shall provide written notice to the other Party as soon as reasonably practicable (and in any event no less than five (5) Business Days prior to sending such notice of breach to the counterparty), and the Parties shall consult with each other regarding such alleged breach. From and after the Distribution, no Party shall (and shall cause the other members of its Group not to) breach any Shared Contract to the extent such breach would reasonably be expected to result in a loss of rights, or acceleration of obligations, of any member of the other Party's Group (or related to its Business, Assets or Liabilities under such Shared Contract) pursuant to (I) such Shared Contract, (II) any Partial Assignment related to such Shared Contract or (III) any other Contract with the counterparty to such Shared Contract (or any of its Affiliates) in existence at the time of the Distribution that contains cross-default or similar provisions related to such Shared Contract.

(e) Consents. Each Party shall, and shall cause each member of its respective Group to, use its commercially reasonable efforts to obtain the required Consents for the Transfer of any Assets, Contracts, licenses, permits and authorizations issued by any Governmental Entity or parts thereof as contemplated by this Agreement, including those Consents set forth on Schedule 2.2(e). Notwithstanding anything herein to the contrary, no Contract or other Asset shall be transferred if it would violate applicable Law or, in the case of any Contract, the rights of any third party to such Contract; provided that Sections 2.2(d) and 2.5, to the extent provided therein, shall apply thereto.

(f) Each Party understands and agrees on behalf of itself and each member of its Group that certain of the Transfers referenced in Section 2.2(b) or Assumptions referenced in Section 2.2(c) have heretofore occurred and, as a result, no additional Transfers or Assumptions by any member of the RemainCo Group or ElectronicsCo Group, as applicable, shall be deemed to occur upon the execution of this Agreement with respect thereto. To the extent that a member of the RemainCo Group or the ElectronicsCo Group, as applicable, owns a RemainCo Asset or ElectronicsCo Asset, respectively, as of the Effective Time, there shall be no need for such member to Transfer such Asset in connection with the operation of Section 2.2(b). Moreover, to the extent that a member of the RemainCo Group or the ElectronicsCo Group, as applicable, is liable for any RemainCo Liability or ElectronicsCo Liability, respectively, at the Effective Time, there shall be no need for such member to Assume such Liability in connection with the operation of Section 2.2(c).

(g) Prior to the Effective Time, in exchange for the ElectronicsCo Spin Contribution, ElectronicsCo shall (i) issue to RemainCo additional shares of ElectronicsCo Common Stock (or RemainCo and ElectronicsCo shall take or cause to be taken such other appropriate actions to ensure that RemainCo has the requisite number of shares of ElectronicsCo Common Stock) such that the number then outstanding shall be equal to the number of shares of ElectronicsCo Common Stock necessary to effect the Distribution in accordance with Section 4.1 and (ii) make, or cause to be made, the ElectronicsCo Cash Distribution by wire payment of immediately available funds to one or more accounts designated by RemainCo.

Section 2.3 Intergroup Accounts. Except as set forth in Section 8.1(b), any and all intercompany receivables, payables, loans and balances (other than (x) as specifically provided for under this Agreement or under any Ancillary Agreement or (y) as otherwise set forth on Schedule 2.3 (the matters set forth on Schedule 2.3, the “Other Surviving Intergroup Accounts”)) between any member of the RemainCo Group or ElectronicsCo Group, on the one hand, and any member of the other Group, on the other hand, which exist as of immediately prior to the Distribution (the “Intergroup Accounts”), shall, prior to the Distribution, be satisfied and/or settled in full by means of a cash payment, dividend, capital contribution, a combination of the foregoing, or otherwise canceled and terminated or extinguished, and, if not settled prior to such time, shall be deemed terminated and released at such time. For the avoidance of doubt, the Other Surviving Intergroup Accounts (a) shall be an obligation of the relevant Party (or the relevant member of such Party’s Group), each responsible for fulfilling its (or a member of such Party’s Group’s) obligations in accordance with the terms and conditions applicable to such obligation or if such terms and conditions are not set forth in writing, such obligation shall be satisfied within the payment terms set forth therefor on Schedule 2.3 or thirty (30) days of a written request by the beneficiary of such obligation given to the corresponding obligor thereunder, and (b) shall be for each relevant Party (or the relevant member of such Party’s Group) an obligation to a third party and shall no longer be an intercompany account.

Section 2.4 Limitation of Liability; Intergroup Contracts.

(a) No Party shall have any Liability to the other Party in the event that any information exchanged or provided pursuant to this Agreement (but excluding any such information included in a Distribution Disclosure Document or Financing Disclosure Document) which is an estimate or forecast, or which is based on an estimate or forecast, is found to be inaccurate.

(b) Except as set forth in Section 2.4(c), no Party or any other member of its Group shall be liable to the other Party or any other member of such other Party’s Group based upon, arising out of or resulting from any Contract, arrangement, course of dealing or understanding existing on or prior to the Distribution (other than this Agreement, the Ancillary Agreements and the Other Surviving Intergroup Accounts) and each Party (on behalf of itself and each other member of its Group) hereby terminates any and all Contracts, arrangements, course of dealings or understandings between or among it or any of its other Group members, on the one hand, and the other Party or any of its respective Group members, on the other hand, effective as of the Distribution (other than this Agreement, the Ancillary Agreements, the Other Surviving Intergroup Accounts, the Conveyancing and Assumption Instruments and such Contracts, arrangements, courses of dealing or understandings with respect to goods in transit for which title has not transferred to the RemainCo Group (if in respect of assets that would otherwise be RemainCo Assets) or the ElectronicsCo Group (if in respect of assets that would otherwise be ElectronicsCo Assets) at the time of the Distribution). No such terminated Contract, arrangement, course of dealing or understanding (including any provision thereof which purports to survive termination) shall be of any further force or effect after the Distribution. Each Party shall, and shall cause the other members of its Group to, execute and deliver such agreements, instruments and other papers as may be required to terminate any such Contract, arrangement, course of dealing or understanding pursuant to this Section 2.4(b) if so requested by the other Party.

(c) The provisions of Section 2.4(b) shall not apply to any of the following Contracts, arrangements, course of dealings or understandings (or to any of the provisions thereof): any agreements, arrangements, commitments or understandings to which any Person other than the Parties and their respective Affiliates is a Party (it being understood that (x) to the extent that the rights and obligations of the Parties and the members of their respective Groups under any such Contracts constitute ElectronicsCo Assets or ElectronicsCo Liabilities, or RemainCo Assets or RemainCo Liabilities, such Contracts shall be assigned or retained pursuant to this Article II, and (y) the obligations of any member of a Group to the other Group shall be deemed terminated as of time of the Distribution with no further liability to such other Group as a result thereof).

(d) If any Contract, arrangement, course of dealing or understanding is terminated pursuant to Section 2.4(b), and, but for the mistake or oversight of any Party, would have been listed as continuing and is reasonably necessary for such affected Party to be able to continue to operate its Business in substantially the same manner in which such Businesses were operated prior to the Distribution, then, at the request of such affected Party made within fifteen (15) months following the Distribution, the Parties shall negotiate in good faith to determine whether and to what extent (including the terms and conditions relating thereto), if any, notwithstanding such termination, such Contract, arrangement, course of dealing or understanding should continue, or as appropriate, be re-instated, following the Distribution; provided, however, that any Party may determine, in its sole discretion, not to re-instate or otherwise continue any such Contract, arrangement, course of dealing or understanding.

(e) Each of the Parties shall take the actions set forth on Schedule 2.4(e) subject to the terms and conditions therein.

#### Section 2.5 Transfers Not Effected on or Prior to the Effective Time; Transfers Deemed Effective as of the Effective Time.

(a) To the extent that any Transfers or Assumptions contemplated by this Article II, including the Transfers of the Intentionally Delayed ElectronicsCo Assets, Intentionally Delayed RemainCo Assets, and certain Assets and Assumptions of certain Liabilities set forth on Schedule 2.5, shall not have been consummated at or prior to the Effective Time, the Parties shall use commercially reasonable efforts to effect such Transfers or Assumptions as promptly following the Effective Time as shall be practicable. Nothing herein shall be deemed to require or constitute the Transfer of any Assets or the Assumption of any Liabilities which by their terms or operation of Law cannot be Transferred; provided, however, that the Parties and their respective Subsidiaries shall cooperate and use commercially reasonable efforts to seek to obtain, in accordance with applicable Law, any necessary Consents for the Transfer of all Assets and Assumption of all Liabilities contemplated to be Transferred and Assumed pursuant to this Article II to the fullest extent permitted by applicable Law, including the Consents set forth on Schedule 2.2(f). In the event that any such Transfer of Assets or Assumption of Liabilities has not been consummated, from and after the Effective Time (i) the Party (or relevant member in its Group) retaining such Asset shall thereafter hold (or shall cause such member in its Group to hold) such Asset in trust for the use and benefit of the Party entitled thereto (at the expense of the Party entitled thereto) and (ii) the Party intended to Assume such Liability shall, or shall cause the applicable member of its Group to, pay or reimburse the Party

retaining such Liability for all amounts paid or incurred in connection with the retention of such Liability. To the extent the foregoing applies to any Contracts (other than Shared Contracts, which shall be governed solely by [Section 2.2\(d\)](#)) to be assigned for which any necessary Consents are not received prior to the Effective Time, the treatment of such Contracts shall, for the avoidance of doubt, also be subject to [Section 2.9](#) and [Section 2.10](#), to the extent applicable. In addition, the Party retaining such Asset or Liability (or relevant member of its Group) shall (or shall cause such member in its Group to) treat, insofar as reasonably possible and to the extent permitted by applicable Law, such Asset or Liability in the ordinary course of business and take such other actions as may be reasonably requested by the Party to which such Asset is to be Transferred or by the Party responsible for Assuming such Liability in order to place such Party, insofar as reasonably possible and to the extent permitted by applicable Law, in the same position as if such Asset or Liability had been Transferred or Assumed as contemplated hereby and so that all the benefits and burdens relating to such Asset or Liability, including possession, use, risk of loss, potential for income and gain, and dominion, control and command over such Asset or Liability, are to inure from and after the Effective Time to the relevant member or members of the RemainCo Group or ElectronicsCo Group entitled to the receipt of such Asset or required to Assume such Liability. In furtherance of the foregoing, each Party agrees (on behalf of itself and each other member of its Group) that, as of the Effective Time, subject to [Section 2.2\(c\)](#) and [Section 2.9\(b\)](#), each Party and/or each member of its Group shall (A) be deemed to have acquired complete and sole beneficial ownership over all of the Assets, together with all rights, powers and privileges incident thereto, and shall be deemed to have Assumed in accordance with the terms of this Agreement all of the Liabilities, and all duties, obligations and responsibilities incident thereto, which such Party is entitled to acquire or required to Assume pursuant to the terms of this Agreement and (B)(I) enforce at the other Party's (or relevant member of its Group's) request, or allow the other Party's Group to enforce in a commercially reasonable manner, any rights of the Party or its Group under such Assets and Liabilities against any other Persons, (II) not waive any rights related to such Assets or Liabilities to the extent related to the Business, Assets or Liabilities of the other Party's Group, (III) not terminate (or consent to be terminated by the counterparty) any Contract that constitutes such Asset except in connection with the expiration of such Contract in accordance with its terms, (IV) not amend, modify or supplement any Contract that constitutes such Asset and (V) provide written notice to the other Party as soon as reasonably practicable (and in no event later than five (5) Business Days following receipt) after receipt of any formal notice of breach received from a counterparty to any Contract that constitutes such Asset; provided that the costs and expenses incurred by the responding Party or its Group in respect of any request by the other Party in respect of such Assets or Liabilities shall be borne solely by the requesting Party or its Group.

(b) If and when the Consents and/or conditions, the conflict, absence, non-satisfaction, existence or potential violation of which caused the deferral of Transfer of any Asset or deferral of the Assumption of any Liability pursuant to [Section 2.5\(a\)](#), are obtained or satisfied, the Transfer, assignment, Assumption or novation of the applicable Asset or Liability shall be effected as promptly as reasonably practicable without further consideration in accordance with and subject to the terms of this Agreement (including [Sections 2.2](#) and [2.5](#)) and/or the applicable Ancillary Agreement, and shall, to the extent possible without the imposition of any undue or otherwise unreasonable cost on any Party, be deemed to have become effective as of the Effective Time.

(c) The Party (or relevant member of its Group) retaining any Asset or Liability due to the deferral of the Transfer of such Asset or the deferral of the Assumption of such Liability pursuant to Section 2.5(a) or otherwise shall (i) not be obligated, in connection with the foregoing, to expend any money unless the necessary funds are advanced, assumed, or agreed in advance to be reimbursed by the Party (or relevant member of its Group) entitled to such Asset or the Person intended to be subject to such Liability, other than reasonable attorneys' fees and recording or similar or other incidental fees, all of which shall be promptly reimbursed by the Party (or relevant member of its Group) entitled to such Asset or the Person intended to be subject to such Liability and (ii) be indemnified for all Indemnifiable Losses or other Liabilities arising out of any actions (or omissions to act) of such retaining Party taken at the direction of the other Party (or relevant member of its Group) in connection with and relating to such retained Asset or Liability, as the case may be. Except as otherwise expressly provided herein, none of RemainCo or ElectronicsCo or any of their respective Affiliates shall be required to commence any litigation or offer or pay any money or otherwise grant any accommodation (financial or otherwise) to any third party with respect to any Assets or Liabilities not Transferred as of the Effective Time; provided, however, that any Party to which such Asset or Liability has not been Transferred or Assumed, respectively, due to the deferral of the Transfer of such Asset or the deferral of the Assumption of such Liability, may request that the Party retaining such Asset or Liability commence litigation, which request shall be considered in good faith by the Party retaining such Asset or Liability; provided, further, that a Party's good faith determination not to commence litigation shall not in and of itself constitute a breach of this Section 2.5(c), but the foregoing shall not preclude consideration of a Party's good faith for purposes of determining compliance with this Section 2.5(c).

(d) Notwithstanding anything else set forth in this Section 2.5 to the contrary, (i) neither RemainCo nor any of its Subsidiaries shall be required by this Section 2.5 to take any action that may, in the good faith judgment of RemainCo, (x) result in a violation of any obligation which RemainCo or any such Subsidiary has to any third party or (y) violate applicable Law, and (ii) neither ElectronicsCo nor any of its Subsidiaries shall be required by this Section 2.5 to take any action that may, in the good faith judgment of ElectronicsCo, (x) result in a violation of any obligation which ElectronicsCo or any such Subsidiary has to any third party or (y) violate applicable Law.

(e) The failure to obtain a Consent shall not in and of itself constitute a breach of this Agreement; provided that the foregoing shall not preclude consideration of a Party's efforts in pursuing such Consent for purposes of determining compliance with this Section 2.5.

(f) To the extent permitted by applicable Law, with respect to Assets and Liabilities described in Section 2.5(a), each of RemainCo and ElectronicsCo shall, and shall cause the members of its respective Group to, (i) treat for all Tax purposes (A) the deferred Assets as assets having been Transferred to and owned by the Party entitled to such Assets not later than the Distribution and (B) the deferred Liabilities as liabilities having been Assumed and owned by the Person intended to be subject to such Liabilities not later than the Distribution and (ii) neither report nor take any Tax position (on a Tax Return or otherwise) inconsistent with such treatment (unless required by a change in applicable Tax Law or good faith resolution of a Tax Contest).

(a) Subject to Section 2.5 (*Transfers Not Effected on or Prior to the Effective Time; Transfers Deemed Effective as of the Effective Time*) and Section 2.2(d) (*Treatment of Shared Contracts*), (i) if at any time within twenty-four (24) months after the Distribution (other than with respect to Intentionally Delayed ElectronicsCo Assets and those certain Assets set forth on Schedule 2.5 in respect of which this covenant shall survive without regard to such twenty-four (24) month limitation until fully performed), any Party discovers that any ElectronicsCo Asset is held by any member of the RemainCo Group or any of its respective then-Affiliates, RemainCo shall, and shall cause the other members of its Group and its and their then-Affiliates to, use their respective reasonable best efforts to promptly procure the Transfer of the relevant ElectronicsCo Asset to ElectronicsCo or an Affiliate of ElectronicsCo designated by ElectronicsCo for no additional consideration; or (ii) if at any time within twenty-four (24) months after the Distribution (other than with respect to Intentionally Delayed RemainCo Assets and those certain Assets set forth on Schedule 2.5 in respect of which this covenant shall survive without regard to such twenty-four (24) month limitation until fully performed), any Party discovers that any RemainCo Asset is held by any member of the ElectronicsCo Group or any of its then-Affiliates, ElectronicsCo shall, and shall cause the other members, its Group and its and their respective then-Affiliates to, use their respective reasonable best efforts to promptly procure the Transfer of the relevant RemainCo Asset to RemainCo or an Affiliate of RemainCo designated by RemainCo for no additional consideration; provided that in the case of clause (i), neither RemainCo nor any of its Affiliates, or in the case of clause (ii), neither ElectronicsCo nor any of its Affiliates, shall be required to commence any litigation or offer or pay any money or otherwise grant any accommodation (financial or otherwise) to any third party. If reasonably practicable and permitted under applicable Law, such Transfer may be effected by rescission of the applicable portion of a Conveyancing and Assumption Instrument as may be agreed by the relevant Parties.

(b) On and prior to the twenty-four (24) month anniversary following the Distribution, if any Party or any member of its Group or (or any of its or their respective then-Affiliates) owns any Asset, that, although not Transferred pursuant to this Agreement, is agreed by such Party and the other Party in their good faith judgment to be an Asset that more properly belongs to such other Party or a member of its Group, or is an Asset that such other Party or a member of its Group was intended to have the right to continue to use (other than (for the avoidance of doubt), as between any two Parties, or any Asset acquired from an unaffiliated third party by a Party or member of such Party's Group following the Distribution), then the Party or a member of its Group (or applicable then-Affiliate) owning such Asset shall, as applicable, (i) Transfer any such Asset to the Party or a member of its Group identified as the appropriate transferee and following such Transfer, such Asset shall be an ElectronicsCo Asset or RemainCo Asset, as the case may be, or (ii) grant such mutually agreeable rights with respect to such Asset to permit such continued use, subject to, and consistent with this Agreement, including with respect to Assumption of associated Liabilities. If reasonably practicable and permitted under applicable law, such Transfer may be effected by rescission of the applicable portion of a Conveyancing and Assumption Instrument as may be agreed by the relevant Parties.



(c) After the Effective Time, each Party (or any member of its Group and any of its or their respective then-Affiliates) may receive mail, packages and other communications properly belonging to the other Party (or any member of its Group). Accordingly, at all times after the Effective Time, each Party (or any member of its Group and any of its or their respective then-Affiliates) is hereby authorized to receive and, to the extent reasonably necessary to identify the proper recipient in accordance with this Section 2.6(c), open all mail, packages and other communications received by such Party (or member of its Group or its or their then-Affiliate) that belongs to such other Party (or member of such other Party's Group), and to the extent that they do not relate to the business of the receiving Party, the receiving Party shall as promptly as reasonably practicable deliver or cause to be delivered such mail, packages or other communications (or, in case the same also relates to the business of the receiving Party or the other Party, copies thereof) to such other Party as provided for in Section 12.6; provided that, if a Party (or any member of its Group and any of its or their respective then-Affiliates) receives any claim or demand against the other Party (or any member of such other Party's Group), or any notice or other communication regarding any Action involving the other Party (or any member of such other Party's Group), such Party shall, and shall cause the other members of its Group to, as promptly as practicable (and, in any event, use commercially reasonable efforts to do so within fifteen (15) days after receipt thereof) notify such other Party (including such other Party's legal department) of the receipt of such claim, demand, notice or other communication, and shall promptly deliver such claim, demand, notice or other communication (or, in case the same also relates to the business of the receiving Party or the other Party, copies thereof) to such other Party; provided, however, that the failure to provide such notice shall not constitute a breach of this Section 2.6(c) except to the extent that any such Party shall have been actually prejudiced as a result of such failure. The provisions of this Section 2.6(c) are not intended to, and shall not, be deemed to constitute an authorization by any Party or any other member of either Group (or any of their Affiliates from time to time) to permit the other to accept service of process on its behalf and no Party is or shall be deemed to be the agent of the other Party or any other member of either Group or any of their respective then-Affiliates for service of process purposes.

(d) After the Distribution, ElectronicsCo shall, or shall cause the other members of its Group and its and any of its respective then-Affiliates to, promptly pay or deliver to RemainCo (or its designee; provided that such designee shall not result in any member of the ElectronicsCo Group bearing additional Taxes) any monies or checks that have been received by ElectronicsCo (or another member of its Group or its or its respective then-Affiliates) after the Distribution to the extent they are (or represent the proceeds of) a RemainCo Asset (it being understood and agreed that any such amounts shall be paid and delivered on a monthly basis, in each case to the applicable members of the RemainCo Group; provided that if the aggregate amount not yet paid or delivered exceeds \$100,000 before such monthly payment and delivery, such amount shall be paid and delivered to the applicable members of the RemainCo Group within seven (7) days).

(e) After the Distribution, RemainCo shall, or shall cause the other members of its Group and its and any of its respective then-Affiliates to, promptly pay or deliver to ElectronicsCo (or its designee; provided that such designee shall not result in any member of the RemainCo Group bearing additional Taxes) any monies or checks that have been received by RemainCo (or another member of its Group or its or its respective then-Affiliates) after the Distribution to the extent they are (or represent the proceeds of) an ElectronicsCo Asset (it being understood and agreed that any such amounts shall be paid and delivered on a monthly basis, in each case to the applicable members of the ElectronicsCo Group; provided that if the aggregate amount not yet paid or delivered exceeds \$100,000 before such monthly payment and delivery, such amount shall be paid and delivered to the applicable members of the ElectronicsCo Group within seven (7) days).

(a) In connection with, and in furtherance of, the Transfers of Assets and the acceptance and Assumptions of Liabilities contemplated by this Agreement, the Parties shall execute or cause to be executed, on or prior to the Distribution, by the appropriate entities, the Conveyancing and Assumption Instruments necessary to evidence the valid and effective Assumption by the applicable Party of its Assumed Liabilities and the valid Transfer to the applicable Party or member of such Party's Group of all right, title and interest in and to its accepted Assets, in substantially the form contemplated hereby for Transfers and Assumptions to be effected pursuant to Delaware Law or the Laws of one of the other states of the United States or, if not appropriate for a given Transfer or Assumption, and for Transfers and Assumptions to be effected pursuant to non-U.S. Laws, in such other form as the Parties shall reasonably agree; provided that Section 8.4(f) shall apply to each Transfer and Assumption contemplated by this Agreement.

(b) With respect to the transfer, directly or indirectly, in connection with the transactions contemplated hereby, of real property (or any portion thereof) that is, or at any time has been, used for any Industrial Purpose, whether or not of record (the portion of such real property that is or has been used for an Industrial Purpose, the "Transferred Industrial Real Property"), the restrictions set forth on Exhibit A attached hereto (the "Industrial Real Property Restrictions") shall apply unless (A) the transferee of such Transferred Industrial Real Property reasonably determines that compliance with one or more of the Industrial Real Property Restrictions is not necessary based on the facts and circumstances existing at the time and notifies the applicable transferor thereof, and (B) such transferor consents in writing thereto (such consent not to be unreasonably withheld, conditioned or delayed). In furtherance of the foregoing, prior to the Distribution, the transferor of any Transferred Industrial Real Property shall be entitled to, in its reasonable discretion, taking into account applicable Law and practicality, exclude or modify to be less stringent any or all of the Industrial Real Property Restrictions from the respective Conveyancing and Assumption Instrument. With respect to any Transferred Industrial Real Property that constitutes an ElectronicsCo Asset or RemainCo Asset, ElectronicsCo (or the applicable member of its Group) or RemainCo (or the applicable member of its Group), respectively, may, in its discretion, request that the transferor of such Transferred Industrial Real Property remove one or more Industrial Real Property Restrictions in the event that facts and circumstances reasonably warrant such removal, and, provided that the transferor of such Transferred Industrial Real Property consents in writing to such removal (such consent not to be unreasonably withheld, conditioned or delayed), the transferor shall (or if the transferor is a member of a Party's Group, that Party shall cause such transferor to), at the expense of the requesting Party (or applicable member of its Group), reasonably cooperate to remove such Industrial Real Property Restrictions. Unless and until the Industrial Real Property Restrictions have been removed, each Party shall, and shall cause the other members of its Group and its and their respective transferees to, comply with the Industrial Real Property Restrictions, unless in the reasonable discretion of the Parties, enforcement of the applicable Industrial Real Property Restrictions is not necessary based on the facts and circumstances existing at the time.

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#### Section 2.8 Further Assurances.

(a) In addition to and without limiting the actions specifically provided for elsewhere in this Agreement and subject to the limitations expressly set forth in this Agreement, including Section 2.5, each of the Parties shall, and shall cause the other members of its Group to, cooperate with each other and use commercially reasonable efforts, on and after the Effective Time, to take, or to cause to be taken, all actions, and to do, or to cause to be done, all things reasonably necessary on its part under applicable Law or contractual obligations to consummate and make effective the transactions contemplated by this Agreement.

(b) Without limiting the foregoing, on and after the Effective Time, each Party shall, and shall cause the other members of its Group to, cooperate with the other Party (or the relevant member of its Group), and without any further consideration, but at the expense (unless allocated to the Group of the requested Party pursuant to the other terms of this Agreement) of the requesting Party (or the relevant member of its Group) (except as provided in Sections 2.2(d)(v) and 2.5(c)) from and after the Effective Time, to execute and deliver, or use commercially reasonable efforts to cause to be executed and delivered, all instruments, including instruments of Transfer, and to make all filings with, and to obtain all Consents, any permit, license, Contract, indenture or other instrument (including any Consents), and to take all such other actions as such Party (or the relevant member of its Group) may reasonably be requested to take by the other Party (or the relevant member of its Group) from time to time, consistent with the terms of this Agreement, in order to effectuate the provisions and purposes of this Agreement and the Transfers of the applicable Assets and the assignment and Assumption of the applicable Liabilities and the other transactions contemplated hereby. Without limiting the foregoing, each Party shall, and shall cause the other members of its Group to, at the reasonable request, cost and expense (unless allocated to the Group of the requested Party (or other member of its Group) pursuant to the other terms of this Agreement) of the other Party, take such other actions as may be reasonably necessary to vest in such other Party (or other member of its Group) such title and such rights as possessed by the transferring Party (or its Group) to the Assets allocated to such Party (or member of its Group) under this Agreement, free and clear of any Security Interest.

(c) Each of the Parties shall take the actions set forth on Schedule 2.8(c) subject to the terms and conditions therein.

#### Section 2.9 Novation of Liabilities.

(a) Each Party, at the request of the other Party (such other Party, the “Other Party”), shall use commercially reasonable efforts to obtain, or to cause to be obtained, any Consent, release, substitution or amendment required to novate or assign to the fullest extent permitted by Law all obligations under Contracts (other than Shared Contracts, which shall be governed by Section 2.2(d)), and other obligations or Liabilities (other than with regard to guarantees or Credit Support Instruments, which shall be governed by Section 2.10), in each case for which a member of such Party’s Group and a member of the Other Party’s Group are jointly or severally liable and that do not constitute Liabilities of such Other Party as provided in this

Agreement, or to obtain in writing the unconditional release of the Other Party to such arrangements (other than any member of the Group who Assumed or retained such Liability as set forth in this Agreement), so that, in any such case, the members of the applicable Group will be solely responsible for such Liabilities; provided, however, that no Party shall be obligated to pay any consideration therefor to any third party from whom any such Consent, substitution or amendment is requested (unless such Party is fully reimbursed by the requesting Party). For the purposes of complying with the terms set forth in this Section 2.9, not more than thirty (30) Business Days after the end of each of the first six (6) fiscal quarters after the Distribution, each of ElectronicsCo and RemainCo shall deliver to the other Party a list of the Consents, releases, substitutions or amendments required to novate or assign to the fullest extent permitted by Law all obligations under Contracts (other than Shared Contracts, which shall be governed by Section 2.2(d)), and other obligations or Liabilities (other than with regard to guarantees or Credit Support Instruments, which shall be governed by Section 2.10) for which a member of such Party's Group and a member of the Other Party's Group are jointly or severally liable and that do not constitute Liabilities of such Other Party as provided in this Agreement, along with the status and anticipated timing for obtaining such Consents, releases, substitutions or amendments required.

(b) If the Parties are unable to obtain, or to cause to be obtained, any such required Consent, release, substitution or amendment, the Other Party or a member of such Other Party's Group shall continue to be bound by such Contract or other obligation that does not constitute a Liability of such Other Party and, unless not permitted by Law or the terms thereof, as agent or subcontractor for such Party, the Party or member of such Party's Group who Assumed or retained such Liability as set forth in this Agreement (the "Liable Party") shall, or shall cause a member of its Group to, directly pay, perform and discharge fully all the obligations or other Liabilities of such Other Party or member of such Other Party's Group thereunder from and after the Effective Time. The Other Party shall, without further consideration, promptly pay and remit, or cause to be promptly paid or remitted, to the Liabile Party or to another member of the Liabile Party's Group, all money, rights and other consideration received by it or any member of its Group in respect of such performance by the Liabile Party (unless any such consideration is an Asset of such Other Party pursuant to this Agreement). If and when any such Consent, release, substitution or amendment shall be obtained or such agreement, lease or other rights or obligations shall otherwise become assignable or able to be novated, the Other Party shall promptly Transfer all rights, obligations and other Liabilities thereunder of any member of such Other Party's Group to the Liabile Party or to another member of the Liabile Party's Group without payment of any further consideration and the Liabile Party, or another member of such Liabile Party's Group, without the payment of any further consideration, shall Assume such rights and Liabilities. Each of the Parties shall, and shall cause their respective Subsidiaries to, take all actions and do all things reasonably necessary on its part, or such Subsidiaries' part, under applicable Law or contractual obligations to consummate and make effective the transactions contemplated by this Section 2.9(b).

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Section 2.10 Guarantees.

(a) (i) RemainCo shall, and shall cause the other members of its Group to, (with the reasonable cooperation of ElectronicsCo) use commercially reasonable efforts to (A) cause a member of the RemainCo Group to be substituted in all respects for a member of the ElectronicsCo Group, and/or (B) have all members of the ElectronicsCo Group removed or released as guarantor of or obligor for any RemainCo Liability (including any credit agreement, guarantee, indemnity, surety bond, letter of credit, banker acceptance and letter of comfort given or obtained by any member of the ElectronicsCo Group for the benefit of any member of the RemainCo Group) to the fullest extent permitted by applicable Law, including in respect of the guarantees set forth on Schedule 2.10(a)(i), and (ii) ElectronicsCo shall, and shall cause the other members of its Group to, (with the reasonable cooperation of RemainCo) use commercially reasonable efforts to (A) cause a member of the ElectronicsCo Group to be substituted in all respects for a member of the RemainCo Group, and/or (B) have all members of the RemainCo Group removed or released as guarantor of or obligor for any ElectronicsCo Liability (including any credit agreement, guarantee, indemnity, surety bond, letter of credit, banker acceptance and letter of comfort given or obtained by any member of the RemainCo Group for the benefit of any member of the ElectronicsCo Group) to the fullest extent permitted by applicable Law, including in respect of those guarantees set forth on Schedule 2.10(a)(ii), in each case (clauses (i) and (ii)), on or prior to the Distribution or as soon as reasonably practicably thereafter. Except as otherwise provided in Section 2.10(b), no member of the ElectronicsCo Group or RemainCo Group or any of their respective Affiliates from time to time shall be required to commence any litigation or offer or pay any money or otherwise grant any accommodation (financial or otherwise) to any third party with respect to any such guarantees.

(b) On or prior to the Distribution or as soon as reasonably practicable thereafter, to the extent required to obtain a release from a guaranty (a "Guaranty Release") (i) of any member of the RemainCo Group, ElectronicsCo shall, and shall cause the other members of the ElectronicsCo Group to, as applicable, execute a guaranty agreement in the form of the existing guaranty, except to the extent that such existing guaranty contains representations, covenants or other terms or provisions either (A) with which any member of the ElectronicsCo Group would be reasonably unable to comply or (B) which would be reasonably expected to be breached, and (ii) of any member of the ElectronicsCo Group, RemainCo Group, and shall cause the other members of the RemainCo Group to, as applicable, execute a guaranty agreement in the form of the existing guaranty, except to the extent that such existing guaranty contains representations, covenants or other terms or provisions either (A) with which any member of the RemainCo would be reasonably unable to comply or (B) which would be reasonably expected to be breached.

(c) If any of RemainCo or ElectronicsCo is unable to obtain, or to cause to be obtained, any such required removal as set forth in clauses (a) and (b) of this Section 2.10, (i) the Party whose Group is the relevant beneficiary shall indemnify and hold harmless the guarantor or obligor for any Indemnifiable Loss arising from or relating thereto (in accordance with the provisions of Article VIII) and shall, or shall cause one of the other members of its Group, as agent or subcontractor for such guarantor or obligor, to pay, perform and discharge fully all of the obligations or other Liabilities of such guarantor or obligor thereunder, (ii) each of RemainCo and ElectronicsCo agrees not to (and to cause the members of their respective Groups not to) renew or extend the term of, increase its obligations under, or Transfer to a third party, any guarantees or Credit Support Instruments, for which the other Party is or may be liable, without the prior written consent of such other Party (such consent not to be unreasonably withheld, delayed or conditioned), unless all obligations of such other Party and the other members of such Party's Group with respect thereto are thereupon terminated by

documentation reasonably satisfactory in form and substance to such Party; provided, however, with respect to guarantees included in leases for real property, in the event a Guaranty Release is not obtained and such Party wishes to extend the term of such guaranteed lease, then such Party shall have the option of extending the term until a date not to exceed the fourth (4th) anniversary of the Distribution if it provides such security as is reasonably satisfactory to the guarantor under such guaranteed lease, and (iii) the relevant beneficiary shall pay to the guarantor or obligor a fee payable at the end of each calendar quarter based on a rate of 3% per annum on the average outstanding amount of the obligation underlying such guarantee or obligation during such quarter.

(d) Each Party shall, and shall cause the other members of their respective Groups to cooperate and (i) ElectronicsCo shall, and shall cause the other members of its Group to, use reasonable best efforts to replace all Credit Support Instruments issued by RemainCo or other members of the RemainCo Group, on behalf of or in favor of any member of the ElectronicsCo Group or the ElectronicsCo Business, including in respect of those Credit Support Instruments set forth on Schedule 2.10(d)(i) (the “ElectronicsCo CSIs”), as promptly as practicable with Credit Support Instruments from ElectronicsCo or a member of the ElectronicsCo Group as of the Effective Time, and (ii) RemainCo shall, and shall cause the other members of its Group to, use reasonable best efforts to replace all Credit Support Instruments issued by ElectronicsCo or other members of the ElectronicsCo Group, on behalf of or in favor of any member of the RemainCo Group or the RemainCo Business, including in respect of those Credit Support Instruments set forth on Schedule 2.10(d)(ii) (the “RemainCo CSIs”), as promptly as practicable with Credit Support Instruments from RemainCo or a member of the RemainCo Group as of the Effective Time:

(i) With respect to any ElectronicsCo CSIs that remain outstanding after the Effective Time (x) ElectronicsCo shall, and shall cause the members of the ElectronicsCo Group to, jointly and severally, indemnify and hold harmless the RemainCo Indemnitees for any Liabilities arising from or relating to the such ElectronicsCo CSIs, including any fees in connection with the issuance and maintenance thereof and any funds drawn by (or for the benefit of), or disbursements made to, the beneficiaries of such ElectronicsCo CSIs in accordance with the terms thereof, (y) ElectronicsCo shall pay to RemainCo a fee payable at the end of each calendar quarter based on a rate of 3% per annum on the average outstanding balance (which, for the avoidance of doubt, shall mean any amount where the guarantor or obligor has not been released from the obligation or liability), during such quarter of any outstanding ElectronicsCo CSIs issued by RemainCo or any member of the RemainCo Group, respectively, and (z) without the prior written consent of RemainCo, ElectronicsCo shall not, and shall not permit any member of the ElectronicsCo Group to, enter into, renew or extend the term of, increase its obligations under, or Transfer to a third party, any loan, lease, Contract or other obligation in connection with which RemainCo or any member of the RemainCo Group, respectively, has issued any Credit Support Instruments which remain outstanding. None of RemainCo or the members of the RemainCo Group will have any obligation to renew any Credit Support Instruments issued on behalf of or in favor of any member of the ElectronicsCo Group or the ElectronicsCo Business after the expiration of such ElectronicsCo CSI.

(ii) With respect to any RemainCo CSIs that remain outstanding after the Effective Time (x) RemainCo shall, and shall cause the members of the RemainCo Group to, jointly and severally, indemnify and hold harmless the ElectronicsCo Indemnitees for any Liabilities arising from or relating to the such RemainCo CSIs, including any fees in connection with the issuance and maintenance thereof and any funds drawn by (or for the benefit of), or disbursements made to, the beneficiaries of such RemainCo CSIs in accordance with the terms thereof, (y) RemainCo shall pay to ElectronicsCo a fee payable at the end of each calendar quarter based on a rate of 3% per annum on the average outstanding balance (which, for the avoidance of doubt, shall mean any amount where the guarantor or obligor has not been released from the obligation or liability) during such quarter of any outstanding RemainCo CSIs issued by ElectronicsCo or any member of the ElectronicsCo Group, respectively, and (z) without the prior written consent of ElectronicsCo, RemainCo shall not, and shall not permit any member of the RemainCo Group to, enter into, renew or extend the term of, increase its obligations under, or Transfer to a third party, any loan, lease, Contract or other obligation in connection with which ElectronicsCo or any member of the ElectronicsCo Group, respectively, has issued any Credit Support Instruments which remain outstanding. None of ElectronicsCo or the members of the ElectronicsCo Group will have any obligation to renew any Credit Support Instruments issued on behalf of or in favor of any member of the RemainCo Group or the RemainCo Business after the expiration of such RemainCo CSI.

Section 2.11 Bank Accounts; Cash Balances.

(a) Each of RemainCo and ElectronicsCo shall, and shall cause the respective members of their Group to, use their commercially reasonable efforts to take all actions necessary to amend all Contracts governing each bank and brokerage account owned by ElectronicsCo and any other member of the ElectronicsCo Group (collectively, the “ElectronicsCo Accounts”), so that from and after the time of the ElectronicsCo Distribution such ElectronicsCo Accounts, if currently linked (whether by automatic withdrawal, automatic deposit or any other authorization to transfer funds from or to, hereinafter “linked”) to any bank or brokerage account owned by RemainCo or any member of the RemainCo Group (collectively, the “RemainCo Accounts”) are de-linked from such ElectronicsCo Accounts.

(b) Each of RemainCo and ElectronicsCo shall, and shall cause the respective members of their Group to, use their commercially reasonable efforts to take all actions necessary to amend all Contracts governing the RemainCo Accounts so that from and after the time of the ElectronicsCo Distribution, such RemainCo Accounts, if currently linked to any ElectronicsCo Account, are de-linked from such ElectronicsCo Accounts.

(c) With respect to any outstanding checks issued by RemainCo, ElectronicsCo or any of the respective members of their Group prior to the Distribution, such outstanding checks shall be honored from and after the Distribution by the Person or Group owning the account on which the check is drawn, without modifying in any way the allocation of Liability (and rights to reimbursement) for such amounts under this Agreement or any Ancillary Agreement.

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Section 2.12 Payment of Specified Transaction Expenses.

(a) At the times set forth on Schedule 2.12(a), RemainCo shall provide ElectronicsCo with a statement of the amounts paid to date by RemainCo (or any other member of the RemainCo Group) in respect of the Specified Transaction Expenses. At the times specified on Schedule 2.12(a), a payment by wire transfer of immediately available funds shall be made as follows in respect of the initial statement (and in respect of subsequent statements, shall be made as set forth on Schedule 2.12(a)):

(i) if the amount of Specified Transaction Expenses paid by RemainCo (or any other member of the RemainCo Group) is greater than the Specified Transaction Expenses Threshold, then an amount equal to such excess shall be paid by ElectronicsCo to one or more accounts designated by RemainCo; and

(ii) if the Specified Transaction Expenses Threshold is greater than the amount of Specified Transaction Expenses paid by RemainCo (or any other member of the RemainCo Group), then an amount equal to such excess shall be paid by RemainCo to one or more accounts designated by ElectronicsCo.

(b) Promptly (but in no event later than ten (10) Business Days) following the Distribution Date, ElectronicsCo shall make a payment of an amount equal to the Applicable ElectronicsCo Percentage, multiplied by the Specified Settlement Expenses by wire transfer of immediately available funds to one or more accounts designated by RemainCo.

(c) For the avoidance of doubt, any payment made pursuant to this Section 2.12 shall be treated, for U.S. federal income tax purposes, as an adjustment to the ElectronicsCo Cash Distribution.

Section 2.13 Disclaimer of Representations and Warranties. EACH OF REMAINCO (ON BEHALF OF ITSELF AND EACH MEMBER OF THE REMAINCO GROUP) AND ELECTRONICSCO (ON BEHALF OF ITSELF AND EACH MEMBER OF THE ELECTRONICSCO GROUP) UNDERSTANDS AND AGREES THAT, EXCEPT AS EXPRESSLY SET FORTH HEREIN OR IN ANY ANCILLARY AGREEMENT, NO PARTY TO THIS AGREEMENT, ANY ANCILLARY AGREEMENT OR ANY OTHER AGREEMENT OR DOCUMENT CONTEMPLATED BY THIS AGREEMENT, ANY ANCILLARY AGREEMENTS OR OTHERWISE, IS REPRESENTING OR WARRANTING IN ANY WAY AS TO THE ASSETS, BUSINESSES, INFORMATION OR LIABILITIES CONTRIBUTED, TRANSFERRED OR ASSUMED AS CONTEMPLATED HEREBY OR THEREBY, AS TO ANY CONSENTS REQUIRED IN CONNECTION HERewith OR THEREWITH, AS TO THE VALUE OR FREEDOM FROM ANY SECURITY INTERESTS OF, AS TO NONINFRINGEMENT, VALIDITY OR ENFORCEABILITY OR ANY OTHER MATTER CONCERNING, ANY ASSETS OF SUCH PARTY, OR AS TO THE ABSENCE OF ANY DEFENSES OR RIGHT OF SETOFF OR FREEDOM FROM COUNTERCLAIM WITH RESPECT TO ANY ACTION OR OTHER ASSET, INCLUDING ACCOUNTS RECEIVABLE, OF ANY PARTY, OR AS TO THE LEGAL SUFFICIENCY OF ANY CONTRIBUTION, ASSIGNMENT, DOCUMENT, CERTIFICATE OR INSTRUMENT DELIVERED HEREUNDER TO CONVEY TITLE TO ANY ASSET OR THING OF VALUE UPON THE



EXECUTION, DELIVERY AND FILING HEREOF OR THEREOF. EXCEPT AS MAY EXPRESSLY BE SET FORTH HEREIN OR THEREIN, ALL SUCH ASSETS ARE BEING TRANSFERRED ON AN “AS IS”, “WHERE IS” AND “WITH ALL FAULTS” BASIS (AND, IN THE CASE OF ANY REAL PROPERTY, WITHOUT LIABILITIES OR WARRANTIES EXCEPT AS OTHERWISE SET FORTH IN THIS AGREEMENT) AND THE RESPECTIVE TRANSFEREES SHALL BEAR THE ECONOMIC AND LEGAL RISKS THAT (I) ANY CONVEYANCE SHALL PROVE TO BE INSUFFICIENT TO VEST IN THE TRANSFEREE GOOD TITLE, FREE AND CLEAR OF ANY SECURITY INTEREST OR OTHER MATTER WHETHER OR NOT OF RECORD AND (II) ANY NECESSARY CONSENTS ARE NOT OBTAINED OR THAT ANY REQUIREMENTS OF LAWS OR JUDGMENTS ARE NOT COMPLIED WITH.

### ARTICLE III

#### CERTAIN ACTIONS AT OR PRIOR TO THE DISTRIBUTION

Section 3.1 Certificate of Incorporation; Certificate of Designation; Bylaws. At or prior to the Distribution, all necessary actions shall be taken to adopt the form of Certificate of Incorporation, Certificate of Designation of Series A Preferred Stock, and Bylaws filed by ElectronicsCo with the Commission as exhibits to the ElectronicsCo Form 10.

Section 3.2 Series A Preferred Stock. Prior to the Distribution, (i) ElectronicsCo shall issue to RemainCo one (1) share of ElectronicsCo Series A Preferred Stock and (ii) immediately following such issuance, RemainCo shall contribute such one (1) share of ElectronicsCo Series A Preferred Stock to the Novus 2025 Trust (the “Trust”).

Section 3.3 Directors. At or prior to the Distribution, RemainCo shall take all necessary action to cause the Board of Directors of ElectronicsCo to consist of the individuals identified in the ElectronicsCo Information Statement as directors of ElectronicsCo.

Section 3.4 Officers. At or prior to the Distribution, RemainCo shall take all necessary action to cause the individuals identified as such in the ElectronicsCo Information Statement to be officers of ElectronicsCo as of the Distribution Date.

Section 3.5 Resignations. At or prior to the Distribution, each of RemainCo and ElectronicsCo shall cause all of its employees and all employees of its respective Subsidiaries (excluding any employees of any member of its respective Group) to resign, effective as of the Distribution, from all positions as officers or directors of any member of the other Groups (and any other Person where such position is as a designee or representative of the other Groups) in which they serve.

Section 3.6 Ancillary Agreements. On or prior to the Effective Time, each of RemainCo and ElectronicsCo shall enter into, and/or (where applicable) shall cause a member or members of their respective Group to enter into, the Ancillary Agreements and any other Contracts in respect of the Distribution reasonably necessary or appropriate in connection with the transactions contemplated hereby and thereby.

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**ARTICLE IV**  
**THE DISTRIBUTION**

Section 4.1 Stock Dividends to RemainCo.

(a) In connection with the Distribution, (i) on or prior to the Distribution Date, ElectronicsCo shall issue to RemainCo, as a stock dividend, such number of shares of ElectronicsCo Common Stock (or RemainCo and ElectronicsCo shall take or cause to be taken such other appropriate actions to ensure that RemainCo has the requisite number of shares of ElectronicsCo Common Stock) as will be required so that the total number of shares of ElectronicsCo Common Stock held by RemainCo immediately prior to the Distribution is equal to the total number of shares of ElectronicsCo Common Stock distributable in the Distribution, and (ii) on the Distribution Date, subject to the conditions and other terms set forth in this Article IV, RemainCo shall cause the Agent to distribute all of the then issued and outstanding shares of ElectronicsCo Common Stock to holders of RemainCo Common Stock on the Distribution Record Date, and to credit the appropriate class and number of such shares of ElectronicsCo Common Stock to book entry accounts for each such holder or designated transferee or transferees of such holder of ElectronicsCo Common Stock. For stockholders of RemainCo who own RemainCo Common Stock through a broker or other nominee, their shares of ElectronicsCo Common Stock will be credited to their respective accounts by such broker or nominee. Each holder of RemainCo Common Stock on the Distribution Record Date (or such holder's designated transferee or transferees) will be entitled to receive in the Distribution one (1) share of ElectronicsCo Common Stock for every two (2) shares of RemainCo Common Stock held by such stockholder. No action by any such stockholder (or such stockholder's designated transferee or transferees) shall be necessary for such stockholder (or such stockholder's designated transferee or transferees) to receive the applicable number of shares of (and, if applicable, cash in lieu of any fractional shares) ElectronicsCo Common Stock such stockholder is entitled to in the Distribution.

Section 4.2 Fractional Shares. RemainCo stockholders holding a number of shares of RemainCo Common Stock on the Distribution Record Date which would entitle such stockholders to receive less than one whole share of ElectronicsCo Common Stock in the Distribution, will receive cash in lieu of fractional shares. Fractional shares of ElectronicsCo Common Stock will not be distributed in the Distribution nor credited to book-entry accounts. The Agent shall, as soon as practicable after the Distribution Date, (a) determine the number of whole shares and fractional shares of ElectronicsCo Common Stock allocable to each holder of record or beneficial owner of RemainCo Common Stock as of close of business on the Distribution Record Date, (b) aggregate all such fractional shares into whole shares and sell the whole shares obtained thereby in open market transactions, in each case, at then prevailing trading prices on behalf of holders who would otherwise be entitled to fractional share interests, and (c) distribute to each such holder, or for the benefit of each such beneficial owner, such holder or owner's ratable share of the net proceeds of such sale, based upon the average gross selling price per share of ElectronicsCo Common Stock after making appropriate deductions for any amount required to be withheld for U.S. federal income tax purposes, for applicable Transfer Taxes and for the costs and expenses of such sale and distribution, including brokers fees and commissions. None of RemainCo, ElectronicsCo or the Agent will guarantee any minimum sale

price for the fractional shares of ElectronicsCo Common Stock. None of RemainCo or ElectronicsCo will pay any interest on the proceeds from the sale of fractional shares. The Agent acting on behalf of the applicable Party will have the sole discretion to select the broker-dealers through which to sell the aggregated fractional shares and to determine when, how and at what price to sell such shares. Neither the Agent nor the broker-dealers through which the aggregated fractional shares are sold shall be Affiliates of RemainCo or ElectronicsCo.

**Section 4.3 Sole Discretion of RemainCo.** RemainCo shall, in its sole and absolute discretion, determine the Distribution Date and all other terms of the Distribution, including the form, structure and terms of any transactions and/or offerings to effect each Distribution and the timing of and conditions to the consummation thereof. In addition, RemainCo may, in accordance with Section 12.11, at any time and from time to time until the completion of each Distribution decide to abandon any or all of the Distribution or modify or change the terms of each Distribution, including by accelerating or delaying the timing of the consummation of all or part of any Distribution. Without limiting the foregoing and notwithstanding anything to the contrary in this Agreement, RemainCo shall have the right not to complete any Distribution if, at any time prior to the Distribution, the Board shall have determined, in its sole discretion, that any Distribution is not in the best interests of RemainCo or its stockholders, that a sale or other alternative is in the best interests of RemainCo or its stockholders or that it is not advisable at that time for the ElectronicsCo Business to separate from RemainCo.

**Section 4.4 Conditions to Distribution.** Subject to Section 4.3, the obligation of RemainCo to consummate the Distribution is subject to the prior or simultaneous satisfaction, or, to the extent permitted by applicable Law, waiver by RemainCo in its sole and absolute discretion, of the following conditions. None of ElectronicsCo or any other member of the ElectronicsCo Group with respect to the Distribution or any third party shall have any right or claim to require the consummation of the Distribution, which shall be effected at the sole discretion of the Board. Any determination made by RemainCo prior to the Distribution concerning the satisfaction or waiver of any or all of the conditions set forth in this Section 4.4 shall be conclusive and binding on the Parties. The conditions are for the sole benefit of RemainCo and shall not give rise to or create any duty on the part of RemainCo or the Board to waive or not waive any such condition. Each Party will use its commercially reasonable efforts to keep the other Party apprised of its efforts with respect to, and the status of, each of the following conditions:

(a) the Commission shall have declared effective the ElectronicsCo Form 10, of which the ElectronicsCo Information Statement forms a part, and no stop order relating to the registration statement will be in effect, no proceedings seeking such stop order shall be pending before or threatened by the Commission, and the ElectronicsCo Information Statement (or the Notice of Internet Availability of the ElectronicsCo Information Statement) shall have been distributed to holders of RemainCo Common Stock;

(b) the ElectronicsCo Common Stock to be delivered in the Distribution shall have been approved for listing on the NYSE, subject to official notice of distribution;

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(c) RemainCo shall have received an opinion from Skadden, Arps, Slate, Meagher & Flom LLP, in form and substance satisfactory to RemainCo (in its sole discretion), substantially to the effect that, among other things, the Distribution, together with the ElectronicsCo Spin Contribution, will qualify as a tax-free transaction under Section 355 and Section 368(a)(1)(D) of the Code;

(d) RemainCo shall have received an opinion from the independent appraisal firm set forth on Schedule 4.4(d) or another independent appraisal firm as determined by the Board, in form and substance satisfactory to RemainCo, confirming that (i) following the Distribution, RemainCo, on the one hand, and ElectronicsCo, on the other hand, will be solvent and adequately capitalized, and (ii) RemainCo has adequate surplus under Delaware Law to declare the Distribution, in each of clauses (i) and (ii), after giving effect to the ElectronicsCo Cash Distribution;

(e) no order, injunction or decree issued by any Governmental Entity of competent jurisdiction, or other legal restraint or prohibition preventing the consummation of all or any portion of the Distribution or any of the related transactions shall be pending, threatened, issued or in effect, and no other event outside the control of RemainCo shall have occurred or failed to occur that prevents the consummation of all or any portion of the Distribution;

(f) the Internal Reorganization shall have been effectuated prior to the Distribution, except for such steps (if any) as RemainCo, in its sole discretion, shall have determined need not be completed or may be completed after the Effective Time;

(g) the Board shall have declared the Distribution and approved all related transactions, which approval may be given or withheld at its absolute and sole discretion (and such declaration or approval shall not have been withdrawn);

(h) RemainCo shall have elected the board of directors of ElectronicsCo, as described in the ElectronicsCo Form 10, immediately prior to the Distribution;

(i) the directors of RemainCo set forth on Schedule 4.4(i), shall have resigned from the Board effective upon the Distribution;

(j) (i) ElectronicsCo shall have, and shall have caused its applicable Subsidiaries to have, entered into all Ancillary Agreements to which it and/or such Subsidiary is contemplated to be a party, and (ii) RemainCo shall have, and shall have caused its applicable Subsidiaries to have, entered into all Ancillary Agreements to which it and/or such Subsidiary is contemplated to be a party;

(k) the making of the ElectronicsCo Cash Distribution;

(l) (i) ElectronicsCo shall have issued to RemainCo one (1) share of ElectronicsCo Series A Preferred Stock and (ii) RemainCo shall have contributed such one (1) share of ElectronicsCo Series A Preferred Stock to the Trust; and

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(m) no events or developments shall have occurred or shall exist that, in the sole and absolute judgment of the Board, make it inadvisable to effect the Distribution or would result in the Distribution and related transactions not being in the best interest of RemainCo or its stockholders.

Section 4.5 Effectiveness of Distribution. Unless otherwise determined by RemainCo prior to the Distribution, the Distribution shall be deemed to occur at 12:03 AM, New York City Time, on the Distribution Date.

## **ARTICLE V**

### **CERTAIN COVENANTS**

Section 5.1 Auditors and Audits: Annual and Quarterly Financial Statements and Accounting. Each Party agrees (on behalf of itself and each other member of its Group) that, following the Distribution until the completion of each Party's audit for the fiscal year ending December 31 of the calendar year in which the third (3<sup>rd</sup>) anniversary of the Distribution occurs, and in any event solely with respect to (x) any statutory audit with respect to any fiscal year ending prior to the Distribution or for any portion of a fiscal year prior to the Distribution, in each case, in respect of which the Party requesting such reasonable assistance and access was an Affiliate (or relevant member of its Group) of the other Party's Group, (y) the preparation and audit of each of the Party's financial statements for the year ended December 31 of the calendar year in which the Distribution occurs (and, if the Distribution occurs in the first quarter of a calendar year, also for the previous fiscal year) or amendments thereto, or the printing, filing and public dissemination thereof, and (z) the audit of each Party's internal controls over financial reporting and management's assessment thereof and management's assessment of each Party's disclosure controls and procedures in respect of the year ended December 31 of the calendar year in which the Distribution occurs (and, if the Distribution occurs in the first quarter of a calendar year, also for the previous fiscal year); provided that in the event that any Party changes its auditors within one (1) year of the completion of each Party's audit for the fiscal year ending December 31 of the calendar year in which the third (3<sup>rd</sup>) anniversary of the Distribution occurs, then such Party may request reasonable access on the terms set forth in this Section 5.1 for a period of up to one hundred and eighty (180) days from such change; provided, further, that, notwithstanding the foregoing, access of the type described in this Section 5.1 shall be afforded by and to each of the Parties (from time to time following the Distribution), as applicable, to the extent reasonably necessary to respond (and for the limited purpose of responding) to any written request or official comment from a Governmental Entity, such as in connection with responding to a comment letter from the Commission, or as reasonably necessary to meet a filing, reporting or similar obligation required under applicable Law (including under Public Reports):

(a) Date of Auditors' Opinion. (i) ElectronicsCo shall use commercially reasonable efforts to enable its auditors to complete their audit for the fiscal year ending December 31 of the calendar year in which the Distribution occurs such that they shall date their opinion on the audited annual financial statements on the same date that RemainCo's auditors date their opinion on RemainCo's audited annual financial statements, and to enable RemainCo to meet its timetable for the printing, filing and public dissemination of RemainCo's annual financial statements for such fiscal year, and (ii) RemainCo shall use commercially

reasonable efforts to enable their auditors to complete their audit for the fiscal year ending December 31 of the calendar year in which the Distribution occurs such that they shall date their opinion on the audited annual financial statements on the same date that ElectronicsCo's auditors date their opinion on ElectronicsCo's audited annual financial statements, and to enable ElectronicsCo to meet its timetable for the printing, filing and public dissemination of ElectronicsCo's annual financial statements for such fiscal year;

(b) Annual Financial Statements. (i) each Party shall provide or provide access to the other Party on a timely basis all Information reasonably required to meet such other Party's schedule for the preparation, printing, filing, and public dissemination of such other Party's annual financial statements for the fiscal year ending December 31 of the calendar year in which the Distribution occurs (and, if the Distribution occurs in the first quarter of a calendar year, also for the previous fiscal year) and for management's assessment of the effectiveness of such Party's disclosure controls and procedures and its internal controls over financial reporting in accordance with Items 307 and 308, respectively, of Regulation S-K and, to the extent applicable to such Party, its auditor's audit of its internal controls over financial reporting and management's assessment thereof in accordance with Section 404 of the Sarbanes-Oxley Act of 2002 and the Commission's and Public Company Accounting Oversight Board's rules and auditing standards thereunder, if required (such assessments and audit being referred to as the "Internal Control Audit and Management Assessments") for the fiscal year ending December 31 of the calendar year in which the Distribution occurs (and, if the Distribution occurs in the first quarter of a calendar year, also for the previous fiscal year), and (ii) without limiting the generality of the foregoing clause (i), each Party shall provide all required financial and other Information with respect to itself and its Subsidiaries to its auditors in a sufficient and reasonable time and in sufficient detail to permit its auditors to take all steps and perform all reviews necessary to provide sufficient assistance to the other Party's auditors (each such other Party's auditors, collectively, the "Other Party's Auditors") with respect to Information to be included or contained in such other Party's annual financial statements for the fiscal year ending December 31 of the calendar year in which the Distribution occurs (or, if the Distribution occurs in the first quarter of a calendar year, the previous fiscal year) and to permit the Other Party's Auditors and management to complete the Internal Control Audit and Management Assessments, if required;

(c) Access to Personnel and Records. subject to the confidentiality provisions of this Agreement (including, for the avoidance of doubt, those set forth in Article IX) and to the extent it relates to the time prior to the Distribution, (i) each Party shall authorize and request its respective auditors to make reasonably available to the Other Party's Auditors both the personnel who performed or are performing the annual audits of such audited Party (each such Party with respect to its own audit, the "Audited Party") and work papers related to the annual audits of such Audited Party, in all cases within a reasonable time prior to such Audited Party's auditors' opinion date, so that the Other Party's Auditors are able to perform the procedures they reasonably consider necessary to take responsibility for the work of the Audited Party's auditors as it relates to their auditors' report on such other Party's financial statements, all within sufficient time to enable such other Party to meet its timetable for the printing, filing and public dissemination of its annual financial statements with the Commission for the fiscal year ending December 31 of the calendar year in which the Distribution occurs (or, if the Distribution occurs in the first quarter of a calendar year, the previous fiscal year), and (ii) each Party shall use

commercially reasonable efforts to make reasonably available to the Other Party's Auditors and management its personnel and Records in a reasonable time prior to the Other Party's Auditors' opinion date and other Party's management's assessment date so that the Other Party's Auditors and other Party's management are able to perform the procedures they reasonably consider necessary to conduct the Internal Control Audit and Management Assessments;

(d) Current, Quarterly and Annual Reports. (i) at least three (3) Business Days prior to the earlier of public dissemination or filing with the Commission, to the extent permitted under applicable Law, each Party shall deliver to the other Party a reasonably complete draft of any earnings news release or any filing with the Commission containing financial statements for the related year in which the Distribution occurs (or, if the Distribution occurs in the first quarter of a calendar year, the previous fiscal year) and the calendar year proceeding such year, including current reports on Form 8-K, quarterly reports on 10-Q and annual reports on Form 10-K or any other annual report purporting to fulfill the requirements of 17 CFR 240-14c-3 (such reports, collectively, the "Public Reports"); provided, however, that each Party may continue to revise its respective Public Report prior to the filing thereof, which changes will be delivered to the other Party as soon as reasonably practicable; provided, further, that each Party's personnel will actively and reasonably consult with the other Party's personnel regarding any proposed changes to its respective Public Report and related disclosures prior to the anticipated filing with the Commission, with particular focus on any changes which would reasonably be expected to have an effect upon the other Party's financial statements or related disclosures; (ii) each Party shall notify the other Party, as soon as reasonably practicable after becoming aware thereof, of any material accounting differences between the financial statements to be included in such Party's annual report on Form 10-K and the pro-forma financial statements included, as applicable, in the ElectronicsCo Form 10 or the Form 8-K to be filed by RemainCo with the Commission on or about the time of each Distribution; and (iii) if any such differences are notified by any Party, the Parties shall confer and/or meet as soon as reasonably practicable thereafter, and in any event prior to the filing of any Public Report, to consult with each other in respect of such differences and the effects thereof on the Parties' applicable Public Reports; and

(e) Compensation Programs. to the extent (i) ElectronicsCo's 2026 proxy statement or Form 10-K for the fiscal year ended December 31 of the calendar year in which the Distribution occurs discusses compensation programs of RemainCo, it shall substantially conform such discussion to RemainCo's proxy statement and/or Form 10-K for the applicable period; and (ii) RemainCo's 2026 proxy statement or Form 10-K for the fiscal year ended December 31 of the calendar year in which the Distribution occurs discusses compensation programs of ElectronicsCo, it shall substantially conform such discussion to ElectronicsCo's proxy statement and/or Form 10-K for the applicable period.

Nothing in this Section 5.1 shall require any Party to violate any agreement with any third party regarding the confidentiality of confidential and proprietary Information relating to that third party or its business; provided, however, that in the event that a Party is required under this Section 5.1 to disclose any such Information, such Party shall use commercially reasonable efforts to seek to obtain such third party's written consent to the disclosure of such Information.

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Section 5.2 Separation of Information.

(a) Except as set forth on Schedule 5.2(a), ElectronicsCo shall, and shall cause the other members of the ElectronicsCo Group to, use commercially reasonable efforts to deliver to RemainCo (or its designee) as promptly as practicable (and, in any event, no later than twelve (12) months following the Distribution) all Information that constitutes a RemainCo Asset but is commingled in any member of the ElectronicsCo Group's current records or archives (whether stored with a third party or directly by any member of the ElectronicsCo Group) (for the avoidance of doubt, ElectronicsCo may redact Information that is an ElectronicsCo Asset to which a member of the RemainCo Group does not have a license pursuant to any Ancillary Agreement (to the extent such Information is not reasonably necessary to exercise a license pursuant to any Ancillary Agreement) or access thereto pursuant to any Designated Ancillary Agreement or that is not otherwise related to the RemainCo Business); provided that with respect to any Information to which a member of the RemainCo Group has a license pursuant to any Ancillary Agreement (or such Information is reasonably necessary to exercise such license) or access thereto pursuant to any Designated Ancillary Agreement, such Information shall be delivered only to the extent of such license (or such reasonable need for related Information) or access thereto and otherwise subject to the terms of the applicable Ancillary Agreement or Designated Ancillary Agreement.

(b) If RemainCo identifies in writing particular Information (whether in written, electronic documentary or other archival documentary form) that RemainCo reasonably believes constitutes a RemainCo Asset (or to which a member of its Group has a license pursuant to an Ancillary Agreement (or such Information is reasonably necessary to exercise such license) or access thereto pursuant to a Designated Ancillary Agreement) or is otherwise related to the RemainCo Business but is held by or on behalf of any member of the ElectronicsCo Group (or any transferee thereof), ElectronicsCo shall, and shall cause any other applicable member of the ElectronicsCo Group to, request that the archive holder deliver such item to ElectronicsCo for review as soon as reasonably practicable, and ElectronicsCo shall review such request and deliver the requested material to RemainCo as promptly as reasonably practicable and in any event within fifteen (15) Business Days of receiving the material from the archive holder; provided that if the requested material is not specific and requires a longer period of review in light of the breadth of the request, ElectronicsCo shall deliver the material to RemainCo as promptly as reasonably practicable and shall notify RemainCo of the expected timeframe to allow RemainCo to narrow such request if desired; provided, further, that with respect to any Information to which a member of the RemainCo Group has a license pursuant to any Ancillary Agreement (or such Information is reasonably necessary to exercise such license) or access thereto pursuant to any Designated Ancillary Agreement, such Information shall be delivered only to the extent of such license (or such reasonable need for related Information) or access thereto and otherwise subject to the terms of the applicable Ancillary Agreement or Designated Ancillary Agreement; provided, further, that if such requested material does not constitute a RemainCo Asset (and a member of the RemainCo Group is not otherwise granted a license pursuant to an Ancillary Agreement (and such Information is not reasonably necessary to exercise such license) or access thereto pursuant to a Designated Ancillary Agreement) or is not otherwise related to the RemainCo Business, ElectronicsCo shall not deliver the material to RemainCo, but shall provide RemainCo with an explanation in reasonable detail of such determination and discuss with RemainCo in good faith.



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(c) Except as set forth on Schedule 5.2(c), RemainCo shall, and shall cause the other members of the RemainCo Group to, use commercially reasonable efforts to deliver to ElectronicsCo (or its designee) as promptly as practicable (and, in any event, no later than twelve (12) months following the Distribution) all Information that constitutes an ElectronicsCo Asset but is commingled in any member of the RemainCo Group's current records or archives (whether stored with a third party or directly by any member of the RemainCo Group) (for the avoidance of doubt, RemainCo may redact Information that is a RemainCo Asset to which a member of the ElectronicsCo Group does not have a license pursuant to any Ancillary Agreement (to the extent such Information is not reasonably necessary to exercise a license pursuant to any Ancillary Agreement) or access thereto pursuant to any Designated Ancillary Agreement or that is not otherwise related to the ElectronicsCo Business); provided that with respect to any Information to which a member of the ElectronicsCo Group, as applicable, has a license pursuant to any Ancillary Agreement (or such Information is reasonably necessary to exercise such license) or access thereto pursuant to any Designated Ancillary Agreement, such Information shall be delivered only to the extent of such license (or such reasonable need for related Information) or access thereto and otherwise subject to the terms of the applicable Ancillary Agreement or Designated Ancillary Agreement.

(d) If ElectronicsCo identifies in writing particular Information (whether in written, electronic documentary or other archival documentary form) that ElectronicsCo reasonably believes constitutes an ElectronicsCo Asset (or to which a member of its Group has a license pursuant to an Ancillary Agreement (or such Information is reasonably necessary to exercise such license) or access thereto pursuant to a Designated Ancillary Agreement) or is otherwise related to the ElectronicsCo Business but is held by or on behalf of any member of the RemainCo Group (or any transferee thereof), RemainCo shall, and shall cause any other applicable member of the RemainCo Group to, request that the archive holder deliver such item to RemainCo for review as soon as reasonably practicable, and RemainCo shall review such request and deliver the requested material to ElectronicsCo as promptly as reasonably practicable and in any event within fifteen (15) Business Days of receiving the material from the archive holder; provided that if the requested material is not specific and requires a longer period of review in light of the breadth of the request, RemainCo shall deliver the material to ElectronicsCo as promptly as reasonably practicable and shall notify ElectronicsCo of the expected timeframe to allow ElectronicsCo to narrow such request if desired; provided, further, that with respect to any Information to which a member of the ElectronicsCo Group has a license pursuant to any Ancillary Agreement (or such Information is reasonably necessary to exercise such license) or access thereto pursuant to any Designated Ancillary Agreement, such Information shall be delivered only to the extent of such license (or such reasonable need for related Information) or access thereto and otherwise subject to the terms of the applicable Ancillary Agreement or Designated Ancillary Agreement; provided, further, that if such requested material does not constitute an ElectronicsCo Asset (and a member of the ElectronicsCo Group is not otherwise granted a license pursuant to an Ancillary Agreement (and such Information is not reasonably necessary to exercise such license) or access thereto pursuant to a Designated Ancillary Agreement) or is not otherwise related to the RemainCo Business, RemainCo shall not deliver the material to ElectronicsCo, but shall provide ElectronicsCo with an explanation in reasonable detail of such determination and discuss with ElectronicsCo in good faith.

Section 5.3 Nonpublic Information. Each Party acknowledges on behalf of itself and the other members of its Group that Information provided under Section 5.1 may constitute material, nonpublic information, and trading in the securities of a member of either Group (or the securities of such Person's Affiliates, or partners) while in possession of such material, nonpublic material information may constitute a violation of the U.S. federal securities Laws.

Section 5.4 Cooperation. From the Distribution until the date that is three (3) years following the Distribution, and subject to the terms and limitations contained in this Agreement and the Ancillary Agreements, each Party shall, and shall cause the other members of its Group, their respective then-Affiliates, each of its and their respective Affiliates and its and their employees to (a) provide reasonable cooperation and assistance to the other Party (and any member of such Party's Group) in connection with the completion of the Internal Reorganization and the transactions contemplated herein and in each Ancillary Agreement (including assisting in the preparation of the Distribution), (b) provide knowledge transfer in reasonable detail at the request of the other Party regarding the Business, Assets or Liabilities of such other Party (for the avoidance of doubt, knowledge transfer is not required pursuant to this Section 5.4(b) with respect to Intellectual Property or Information constituting an Asset of the requested Party's Group (unless a license or access thereto has been granted to a member of the requesting Party's Group pursuant to an Ancillary Agreement or Designated Ancillary Agreement (but in such case, Information shall be delivered only to the extent of such license (or to the extent reasonably necessary to exercise such license) or access and otherwise subject to the terms of the applicable Ancillary Agreement or Designated Ancillary Agreement))), (c) reasonably assist each Party (or member of its respective Group) in the orderly and efficient transition in becoming an independent company, (d) reasonably assist the other Party (or member of its respective Group) to the extent such Party (or member of such Party's Group) is providing or has provided services, as applicable, pursuant to the Transition Services Agreement or the applicable Site Services Agreements, in connection with requests for Information from, audits or other examinations of, such other Party (or member of such Party's Group) by a Governmental Entity, and (e) provide reasonable cooperation and assistance to the other Party (and any member of its respective Group) in (i) seeking and obtaining all Consents of Governmental Entities under applicable Law with respect to the transactions contemplated by this Agreement and (ii) gathering, preparing and submitting any Information or documentary material that may be requested by any Governmental Entity in connection with obtaining such Consents, in each case (clauses (a) through (g)), at no additional cost to the Party (or member of such Party's Group) requesting such assistance other than for the actual out-of-pocket costs (which shall not include the costs of salaries and benefits of employees of such Party (or its Group) or any pro rata portion of overhead or other costs of employing such employees which would have been incurred by such employees' employer regardless of the employees' service with respect to the foregoing) incurred by any such Party (or its Group), if applicable. The cooperation and assistance provided for in this Section 5.4 shall not be required to the extent such cooperation and assistance would result in an undue burden on any Party (or any member of its Group) or would unreasonably interfere with any of its employees' normal functions and duties. In furtherance of, and without limiting, the foregoing, each Party shall, and shall cause the other members of its Group (or their then-current Affiliates) to, make reasonably available those employees with particular knowledge of any function or service of which the other Party was not allocated the employees involved in such function or service in connection with the Internal Reorganization (including employee benefits functions, risk management, etc.).

(a) Prior to the Distribution, the Permit Transferor shall be responsible for preparing and submitting, on a timely basis, all filings required to effect, as applicable (i) the Transfer to the applicable Permit Transferee of all permits, including Environmental Permits, that constitute Assets that are allocated to the Permit Transferee's Group pursuant to this Agreement, and (ii) the issuance of all permits, including Environmental Permits, necessary for the conduct of the Business of the Permit Transferee's Group as it is conducted as of the time of the Distribution after giving effect to the Ancillary Agreements. The Permit Transferee shall cooperate with the Permit Transferor with respect to the filing of such transfer or reissuance requests, including executing any necessary forms as required and providing Information in the Permit Transferee's possession to the Permit Transferor that is necessary for any such transfer or reissuance request. Following the Distribution, notwithstanding Section 2.6, the Permit Transferor shall, and shall cause the other members of its Group to, use commercially reasonable efforts to (A) assist the Permit Transferee by providing any Information necessary to allow the Permit Transferee to apply to the applicable Governmental Entity for issuance of a new permit, including Environmental Permits, to the Permit Transferee, to the extent that such application was not submitted prior to the Distribution pursuant to this Section 5.5(a), (B) of the type in clauses (i) and (ii) above, maintain each permit, including any Environmental Permit, that was not Transferred to the Permit Transferee prior to the Distribution (a "Non-Transferred Permit"), in full force and effect in all material respects in the ordinary course of business consistent with past practice (or, if greater, the level of effort agreed to maintain and administer its own permits, including any Environmental Permit) and taking into account the transactions contemplated by this Agreement, until such time as the permit has been transferred or reissued to the Permit Transferee; provided that the Permit Transferor's obligation hereunder is conditioned on the Permit Transferee undertaking prompt action to apply for and prosecute the reissuance or a transfer of said Non-Transferred Permit, (C) cooperate in any reasonable and lawful arrangement designed to provide to the Permit Transferee the benefits arising under each Non-Transferred Permit, including accepting such reasonable direction as the Permit Transferee shall request of the Permit Transferor, and (D) enforce at the Permit Transferee's reasonable request, or allow the Permit Transferee to enforce in a commercially reasonable manner, any rights of the Permit Transferor under such Non-Transferred Permit (to the extent related to the Business of the Permit Transferee); provided that (x) the costs and expenses incurred by the Permit Transferor related to the foregoing clauses (A) and (B) shall be borne solely by the Permit Transferor and (y) the costs and expenses incurred by the Permit Transferor related to the foregoing clauses (C) and (D) shall be borne solely by the Permit Transferee. Following the Distribution, the Permit Transferee shall be responsible for compliance by the Business of its Group with all of the terms and conditions of any permit, including any Environmental Permit, which is a Non-Transferred Permit. The Permit Transferee shall be responsible for all Liabilities related thereto and shall indemnify the Permit Transferor pursuant to Article VIII for all Indemnifiable Losses to the extent relating to or arising in connection with or resulting from a Permit, including any Environmental Permit, which is a Non-Transferred Permit due to the Business of its Group, including fines or penalties arising from violations by its Group of any terms and/or conditions of the Non-Transferred Permit. The covenants and agreements set forth in this Section 5.5(a) of a Permit Transferor or

Permit Transferee that (x) is a member of the RemainCo Group shall constitute RemainCo Liabilities, and (y) is a member of the ElectronicsCo Group shall constitute ElectronicsCo Liabilities. Notwithstanding Section 2.5 or Section 2.6, but in furtherance of the foregoing, in the case of any Permits (including Environmental Permits) which are related to both of the RemainCo Business and ElectronicsCo Business (a “Shared Permit”), the holder of such Shared Permit shall be entitled to elect whether to (I) Transfer the applicable Shared Permit to a member of the other Party’s Group (as designed by such Party) and procure for itself any new Permits or (II) procure the issuance for the other Party of such new Permits, including Environmental Permits, related to the existing Shared Permits (to the extent necessary for the conduct of the Business of such other Party’s Group as it is conducted as of the time of the Distribution after giving effect to the Ancillary Agreements); provided that, in each case, and for the avoidance of doubt, if there is any delay in the Transfer or procurement of such Permit, clauses (A) through (D) of this Section 5.5(a) shall continue to apply.

(b) Subject to Article VIII, as required by applicable Law and as soon as practicable after the Distribution, but in any event no later than thirty (30) days after the Distribution unless otherwise permitted under applicable Law, each of ElectronicsCo and RemainCo, as the case may be, shall, or shall cause another member of its Group to, submit to the appropriate regulatory agencies documentation satisfactory to such agencies that it has procured financial assurance, in compliance with applicable Laws, to replace the financial assurance provided by members of the other Party’s Groups in respect of Environmental Liabilities that constitute ElectronicsCo Liabilities or RemainCo Liabilities, respectively, pursuant to such Laws. A schedule of the financial assurance related to Environmental Liabilities required to be obtained by each of the ElectronicsCo Group and RemainCo Group as of the date of this Agreement is set forth on Schedule 5.5(b). Subject to Article VIII, to the extent that the Environmental Liability underlying such financial assurance is an ElectronicsCo Liability or RemainCo Liability, ElectronicsCo or RemainCo, respectively, shall remain liable for the costs and expenses associated with maintaining such financial assurance, even in circumstances where an Indemnitee is required as a matter of applicable Law to obtain such financial assurance.

Section 5.6 Inventor Remuneration. Each Party shall, and shall cause the members of its respective Group (as applicable) to, reasonably cooperate with each other and shall use commercially reasonable efforts, on and after the Effective Time, to take, or cause to be taken, and without any further consideration, from and after the Effective Time to provide assistance and deliver, and cause to be delivered, all information, Contracts, reports, records and other materials reasonably necessary to determine and pay Inventor Remuneration, including (a) the Inventor Remuneration due to each such inventor, (b) the calculations of such Inventor Remuneration, (c) the last available contact information of each such inventor, (d) when such Inventor Remuneration is or was due to be paid, (e) the milestones at which each such inventor was or is owed such Inventor Remuneration and the payments due at such milestones, and (f) any pending or threatened Action arising out of such Inventor Remuneration. From and after the Distribution, at the request of a Party, the other Party shall, and shall cause the other members of its Group to, reasonably cooperate to maintain such information as confidential, including by permitting such information to be provided directly to the inventor and permitting a Party or a member of its Group to directly compensate such inventor, and permitting such inventor to be subject to reasonable confidentiality arrangements.

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Section 5.7 Certain Covenants. Each of the Parties shall take the actions set forth on Schedule 5.7 subject to the terms and conditions therein.

## **ARTICLE VI**

### **PRIOR TRANSACTION AGREEMENTS**

Section 6.1 No Assignment. For the avoidance of doubt, notwithstanding anything to the contrary set forth in this Agreement, no member of the RemainCo Group shall have any obligation pursuant to this Agreement or the Ancillary Agreements to assign or use any level of effort to attempt to assign or otherwise Transfer any Prior Transaction Agreement, in full or in part, or any rights thereunder to any member of the ElectronicsCo Group other than (a) the ElectronicsCo Specified Prior Transaction Agreements (which are subject to Section 2.5) and (b) the Severable Prior Transaction Agreements (which are subject to Section 2.2(d)). For the avoidance of doubt, RemainCo may elect in its reasonable discretion and in consultation with ElectronicsCo to partially assign any Prior Transaction Agreement to effectuate the intent of this Article VI (but at all times subject to the terms of this Article VI, including the limitations set forth in Section 6.2(b)).

#### Section 6.2 ElectronicsCo Enforcement.

(a) Subject to Section 6.2(b) and Article VII, unless the benefits of a Shared Prior Transaction Agreement are conveyed to ElectronicsCo (or a member of the ElectronicsCo Group) pursuant to an Ancillary Agreement, from and after the Distribution, RemainCo shall (or shall cause the applicable member of the RemainCo Group to), at RemainCo's election, either (i) enforce, or shall cause the applicable member of the RemainCo Group to enforce, at ElectronicsCo's request, or (ii) allow ElectronicsCo or another member of the ElectronicsCo Group to enforce in a commercially reasonable manner, any and all rights of any member of the RemainCo Group (after giving effect to the Distribution) under any and all Shared Prior Transaction Agreements to the extent related to the ElectronicsCo Business, ElectronicsCo Assets or ElectronicsCo Liabilities, as applicable (and ElectronicsCo shall (A) directly bear the out-of-pocket costs and expenses of such enforcement to the extent related to the rights being enforced for the benefit of the ElectronicsCo Group, (B) indemnify the RemainCo Indemnitees against any Indemnifiable Losses arising out of such enforcement to the extent related to the rights being enforced for the benefit of the ElectronicsCo Group, and (C) for the avoidance of doubt, be entitled to any recovery to the extent (I) related to the ElectronicsCo Business, ElectronicsCo Assets or ElectronicsCo Liabilities, as applicable, and (II) related to, arising out of or resulting from such enforcement). Notwithstanding anything in this Agreement to the contrary (including the definition of "ElectronicsCo Assets"), under no circumstances will ElectronicsCo or any member of the ElectronicsCo Group be entitled to any right, interest or benefit under any Shared Prior Transaction Agreement or to compel any enforcement thereof except, in each case, (x) the ElectronicsCo Vested Prior Transaction Rights and (y) as set forth in this Section 6.2, in each case, subject to Article VII.

(b) Notwithstanding Section 6.2(a):

(i) no member of the RemainCo Group shall have any obligation to any ElectronicsCo Indemnatee or any of their respective then-Affiliates to offer or pay any money or otherwise grant any accommodation (financial or otherwise) to any third party to enforce any Shared Prior Transaction Agreement;

(ii) no member of the ElectronicsCo Group shall have any right to, and no member of the RemainCo Group shall have any obligation to any member of the ElectronicsCo Group (or any other ElectronicsCo Indemnatee) to, exercise any rights or enforce any obligations relating to, arising out of or resulting from the “Contingent Claim Committee” (as defined in the DWDP SDA), “Shared Historical DuPont Claim Committee” (as defined in the DWDP SDA) or any of the provisions set forth on Schedule 6.2(b)(ii); and

(iii) no member of the ElectronicsCo Group shall have any right to, and no member of the RemainCo Group shall have any obligation to any member of the ElectronicsCo Group (or any other ElectronicsCo Indemnatee) to, exercise any rights or enforce any obligations under any Shared Prior Transaction Agreements, including by commencing or maintaining any Action against any third party to enforce (or to allow any member of the ElectronicsCo Group to enforce) any Shared Prior Transaction Agreement if, in the good faith judgment of RemainCo (or if such member of RemainCo Group is not an Affiliate of RemainCo at such time, such member of the RemainCo Group), exercising any such rights or enforcing any such obligations (including, with respect to any Action, the commencement, maintenance or resolution thereof by order, judgment, settlement or otherwise) would reasonably be expected to (A) materially and adversely impact the conduct of the RemainCo Business or result in a material adverse change to any member of the RemainCo Group at shared locations where any member of the “MatCo Group” (as defined in the DWDP SDA) and any member of the RemainCo Group or any member of the “AgCo Group” (as defined in the DWDP SDA) and any member of the RemainCo Group, as applicable, have operating agreements, governmental permits or joint obligations to a Governmental Entity with interdependencies, or (B) result in a material adverse effect on the financial condition or results of operations of RemainCo and its Subsidiaries (or if such member of RemainCo Group is not an Affiliate of RemainCo at such time, such member of the RemainCo Group and its then-Affiliates) at such time or the RemainCo Business conducted thereby at such time, taken as a whole, and in the case of both clauses (A) and (B), such material adverse effect would reasonably be expected to be greater with respect to the RemainCo Group, taken as a whole, than the effect on the ElectronicsCo Group, taken as a whole; provided, however, that ElectronicsCo may request that RemainCo commence or maintain an Action (and/or cause the applicable member of the RemainCo Group party to such Shared Prior Transaction Agreement to commence or maintain an Action), which request shall be considered in good faith by RemainCo; provided, further, that RemainCo’s good faith determination not to commence or maintain an Action shall not in and of itself constitute a breach of this Section 6.2, but the foregoing shall not preclude consideration of RemainCo’s good faith for purposes of determining compliance with this Section 6.2.

(c) Subject to Article VII, from and after the Distribution, RemainCo shall not, and shall cause the other applicable members of the RemainCo Group not to, without the consent of ElectronicsCo (such consent not to be unreasonably withheld, conditioned or delayed), as applicable, (i) waive any rights under such Shared Prior Transaction Agreement to the extent related to the ElectronicsCo Business, ElectronicsCo Assets or ElectronicsCo Liabilities, as applicable, of such other Party, (ii) terminate (or consent to be terminated by the counterparty) such Shared Prior Transaction Agreement except in connection with (A) the expiration of such Shared Prior Transaction Agreement in accordance with its terms (it being understood, for the avoidance of doubt, that sending a notice of non-renewal to the counterparty to such Shared Prior Transaction Agreement in accordance with the terms of such Shared Prior Transaction Agreement is expressly permitted) or (B) a partial termination of such Shared Prior Transaction Agreement that would not reasonably be expected to impact any rights under such Shared Prior Transaction Agreement related to the ElectronicsCo Business, ElectronicsCo Assets or ElectronicsCo Liabilities, as applicable, or (iii) amend, modify or supplement such Shared Prior Transaction Agreement in a manner (A) material (relative to the existing rights and obligations related to the ElectronicsCo Business, ElectronicsCo Assets or ElectronicsCo Liabilities, as applicable, under such Shared Prior Transaction Agreement) and adverse to the ElectronicsCo Business, ElectronicsCo Assets or ElectronicsCo Liabilities, as applicable, and (B) disproportionate in the impact incurred by the ElectronicsCo Business, ElectronicsCo Assets or ElectronicsCo Liabilities, as applicable, under such Shared Prior Transaction Agreement (relative to the existing rights and obligations related to the ElectronicsCo Business, ElectronicsCo Assets or ElectronicsCo Liabilities, as applicable, under such Shared Prior Transaction Agreement) compared to the impact incurred by the RemainCo Business, RemainCo Assets or RemainCo Liabilities under such Shared Prior Transaction Agreement (relative to the existing rights and obligations related to the RemainCo Business, RemainCo Assets or RemainCo Liabilities under such Shared Prior Transaction Agreement).

(d) Subject to Article VII, from and after the Distribution, if a member of a Group (the “Prior Transaction Agreement Notice Recipient”) receives from a counterparty to a Shared Prior Transaction Agreement a formal notice of breach of such Shared Prior Transaction Agreement that would reasonably be expected to impact the other Group, the Prior Transaction Agreement Notice Recipient shall provide written notice to the other Party as soon as reasonably practicable (and in no event later than five (5) Business Days following receipt of such notice), and the Parties shall consult with respect to the actions proposed to be taken regarding the alleged breach. If RemainCo or another member of the RemainCo Group (the “Prior Transaction Agreement Notifying Party”) sends to a counterparty to a Shared Prior Transaction Agreement a formal notice of breach of such Shared Prior Transaction Agreement that would reasonably be expected to impact the ElectronicsCo Group, the Prior Transaction Agreement Notifying Party shall provide written notice to ElectronicsCo as soon as reasonably practicable (and in any event no less than five (5) Business Days prior to sending such notice of breach to the counterparty), and the Parties shall consult with each other regarding such alleged breach. From and after the Distribution, no Party shall (and each Party shall cause the other members of its Group not to) breach any Shared Prior Transaction Agreement to the extent such breach would reasonably be expected to result in a loss of rights, or acceleration of obligations, of any member of the other Party’s Group (or related to its Business, Assets or Liabilities under such Shared Prior Transaction Agreement) pursuant to (x) such Shared Prior Transaction Agreement, or (y) any other Contract with the third party counterparty to such Shared Prior Transaction Agreement (or any of its Affiliates) in existence at the time of the Distribution that contains cross-default or similar provisions related to such Shared Prior Transaction Agreement.

Section 6.3 ElectronicsCo Obligations. ElectronicsCo shall, or shall cause the applicable member of its Group to, pay, perform and discharge fully all of the obligations and Liabilities of any member of any Party's Group under the Prior Transaction Agreements to the extent constituting an ElectronicsCo Liability, and shall otherwise use commercially reasonable efforts to pay, perform and discharge such obligations and Liabilities related to the ElectronicsCo Business or an ElectronicsCo Asset, as applicable, or any obligation that RemainCo is obligated to cause its Affiliates to perform as if it were a party thereto. To the extent any such performance by ElectronicsCo is not permitted by any applicable counterparty under the terms of any applicable Prior Transaction Agreement, and subject to any separate arrangement reached in any Ancillary Agreement, RemainCo shall continue to pay, perform and discharge fully all such obligations in coordination with and at ElectronicsCo's direction, and any and all costs, expenses and Liabilities incurred by RemainCo or its Affiliates in connection with the performance by RemainCo or its Affiliates of its obligations under this Section 6.3 shall be borne solely by ElectronicsCo.

Section 6.4 Access to Accessible DWDP/Neptune Insurance Policies for Pre-Distribution Matters.

(a) In furtherance and not in limitation of this Article VI but subject to Article VII, with respect to Liabilities of RemainCo and its Subsidiaries immediately prior to the Distribution that (x) constitute ElectronicsCo Liabilities (other than those incurred by a member of the RemainCo Group) or (y) are otherwise incurred by a member of the ElectronicsCo Group, in each case to the extent related to or arising from occurrences, acts, omissions or other matters prior to the Distribution Date, and to the extent any rights to insurance coverage applicable to those Liabilities are available under any Accessible DWDP/Neptune Insurance Policy and access to such Accessible DWDP/Neptune Insurance Policy is available to "SpecCo" (as defined in the DWDP SDA) and members of the "SpecCo Group" (as defined in the DWDP SDA) pursuant to Article XI of the DWDP SDA or "Remainco" (as defined in the Neptune SDA) and members of the "Remainco Group" (as defined in the Neptune SDA) pursuant to Article X of the Neptune SDA, and subject to the terms and conditions of the Accessible DWDP/Neptune Insurance Policy:

(i) any rights to such insurance coverage earlier assigned to the RemainCo Group pursuant to the DWDP SDA or Neptune SDA are hereby assigned by RemainCo (on behalf of itself and the applicable members of its Group) to the applicable members of the ElectronicsCo Group on that same date, to the extent permissible under the DWDP SDA, the Neptune SDA and any Accessible DWDP/Neptune Insurance Policy, as applicable; and

(ii) to the extent permitted under such Accessible DWDP/Neptune Insurance Policy, the DWDP SDA and the Neptune SDA, as applicable, RemainCo shall, or shall cause the applicable member of its Group to, provide the applicable member of the ElectronicsCo Group with, from and after the Distribution Date, access to and the right to make claims under, the applicable Accessible



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DWDP/Neptune Insurance Policy; provided that such access to, and the right to make claims under, such Accessible DWDP/Neptune Insurance Policy shall be subject to the terms, conditions and exclusions of such policy, including any notice or reporting requirements under the occurrence-reported excess general liability insurance policies, any limits on coverage or scope, and any deductibles, retentions, retrospective premiums, and other chargeback amounts, fees, costs and expenses and subject to the terms of the DWDP SDA and Neptune SDA, as applicable, and shall be subject further to the following:

(A) to the extent permitted under such Accessible DWDP/Neptune Insurance Policy, the DWDP SDA and the Neptune SDA, as applicable, the applicable member of the ElectronicsCo Group shall be responsible for the submission, administration and management of any such claims under such Accessible DWDP/Neptune Insurance Policy; provided that ElectronicsCo shall provide reasonable written notice to RemainCo, or the applicable member of its Group, prior to submitting any such claim;

(B) if such Accessible DWDP/Neptune Insurance Policy, the DWDP SDA or the Neptune SDA, as applicable, does not permit the applicable members of the ElectronicsCo Group to directly submit claims thereunder, ElectronicsCo shall, or shall cause the applicable member of its Group to, report any such claims under such Accessible DWDP/Neptune Insurance Policy as soon as reasonably practicable to RemainCo, and RemainCo shall, or shall cause the applicable member of its Group to, submit such claims directly to the applicable insurer(s) on behalf of the applicable member of the ElectronicsCo Group, to the extent permitted by the DWDP SDA, the Neptune SDA and the Accessible DWDP/Neptune Insurance Policy, as applicable; provided that with respect to any such claims, ElectronicsCo (or the applicable member of its Group) shall (I) be responsible for (1) the preparation of any documents that are required for the submission of such claims and (2) the administration and management of such claims after submission, and (II) provide RemainCo, or the applicable member of its Group, with such documents or other information necessary for the submission of such claims by RemainCo, or the applicable member of its Group, on behalf of ElectronicsCo or the applicable member of its Group;

(C) the members of the RemainCo Group shall reasonably cooperate with the applicable members of the ElectronicsCo Group in the pursuit of any such claims under such Accessible DWDP/Neptune Insurance Policies, including by providing the applicable members of the ElectronicsCo Group with commercially reasonable access to the applicable Accessible DWDP/Neptune Insurance Policy(ies) upon the written request of ElectronicsCo and promptly remitting insurance proceeds to the applicable members of the ElectronicsCo Group;

(D) ElectronicsCo (or the applicable member of its Group) shall be responsible for any payments to the applicable Accessible DWDP/Neptune Insurance Policy insurer(s) under such Accessible DWDP/Neptune Insurance Policy relating to ElectronicsCo's (or the applicable member of its Group's) claims submissions, and shall indemnify, hold harmless and reimburse RemainCo (and

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the applicable member of its Group) for any losses, liabilities, costs or expenses incurred or payable by RemainCo (or any member of its Group) to the extent resulting from any access to, or any claims made by ElectronicsCo (or any member of its Group) under, any such Accessible DWDP/Neptune Insurance Policy in accordance with this Article VI, the DWDP SDA and the Neptune SDA (with respect to ElectronicsCo Liabilities), including any deductibles, retentions, retrospective premiums and other chargeback amounts, fees, costs and expenses, indemnity payments, settlements, judgments, attorneys' fees, allocated claims expenses and claim handling fees, whether such claims are submitted directly or indirectly by ElectronicsCo (or a member of its Group), or its or their employees or third parties;

(E) ElectronicsCo (or the applicable member of its Group) shall bear (and none of the RemainCo Group shall have any obligation to repay or reimburse the ElectronicsCo Group for) and shall be liable for all excluded, uninsured, uncovered, unavailable or uncollectible amounts of all such claims directly or indirectly made by ElectronicsCo (or any members of its Group) under such Accessible DWDP/Neptune Insurance Policy (unless otherwise constituting a RemainCo Liability); and

(F) no member of the ElectronicsCo Group, in connection with making a claim under any such Accessible DWDP/Neptune Insurance Policy pursuant to this Article VI and Section 6.4, shall take any action or fail to take any action that the ElectronicsCo Group member reasonably determines would be reasonably likely to (I) have a material adverse impact on the then-current relationship between any member of the RemainCo Group, "AgCo Group" (as defined in the DWDP SDA), "MatCo Group" (as defined in the DWDP SDA) or "Spinco Group" (as defined in the Neptune SDA), on the one hand (as applicable), and the applicable Insurer(s), on the other hand; (II) result in the applicable Insurer(s) terminating or reducing coverage for, or increasing the amount of any premium owed by, any member of the RemainCo Group, "AgCo Group" (as defined in the DWDP SDA), "MatCo Group" (as defined in the DWDP SDA) or "Spinco Group" (as defined in the Neptune SDA) under such policy (as applicable); (III) otherwise materially compromise, jeopardize or interfere with the rights of any member of the RemainCo Group, "AgCo Group" (as defined in the DWDP SDA), "MatCo Group" (as defined in the DWDP SDA) or "Spinco Group" (as defined in the Neptune SDA) (as applicable) under such policy; or (IV) otherwise materially compromise or impair the ability of RemainCo, "AgCo" (as defined in the DWDP SDA), "MatCo" (as defined in the DWDP SDA) or "Spinco" (as defined in the Neptune SDA) to enforce its rights with respect to any indemnification under or arising out of this Agreement, the DWDP SDA or the Neptune SDA, as applicable, and RemainCo shall have the right to cause ElectronicsCo to desist, or cause any other member of the ElectronicsCo Group to desist, from any action that RemainCo reasonably determines would compromise or impair its rights in accordance with this clause (IV) or the rights of "MatCo" (as defined in the DWDP SDA), "AgCo" (as defined in the DWDP SDA) or "Spinco" (as defined in the Neptune SDA), as applicable.

(b) Nothing contained in this Agreement or Section 6.4 shall be considered an assignment or attempted assignment of any insurance policy in its entirety (as opposed to an assignment of rights and proceeds under a policy) or of the DWDP SDA or Neptune SDA, in whole or in part, nor is it considered to be itself a contract of insurance, and further, this Agreement shall not be construed to waive any right or remedy of any Party or any members of their respective Groups under or with respect to any Accessible DWDP/Neptune Insurance Policy and related programs, or any other contract or policy of insurance, and any Party or any member of their respective Groups reserve all their rights thereunder.

(c) Subject to Article VII, in the event of any Action by or against members of both Groups to recover Insurance Proceeds under an Accessible DWDP/Neptune Insurance Policy with respect to claims that relate to the same or related occurrences, acts, omissions or other matters, to the extent permitted by the DWDP SDA, Neptune SDA and applicable Law, RemainCo or ElectronicsCo (or the applicable member of their respective Groups), as applicable, may jointly prosecute or defend any such Action, in which case each Party shall, and shall cause the other members of its Group to, waive any conflict of interest to the extent necessary to conduct such joint prosecution or defense.

(d) Notwithstanding the foregoing in this Article VI and Section 6.4, and for the avoidance of doubt, at no time shall RemainCo or any member of the RemainCo Group be required or obligated to provide any benefit to ElectronicsCo or any member of its Group under, or otherwise take any action under this Agreement with respect to, any Accessible DWDP/Neptune Insurance Policy to the extent not otherwise permitted or available to RemainCo under the DWDP SDA or Neptune SDA.

## **ARTICLE VII**

### **LEGACY LIABILITIES**

Section 7.1 Legacy Liabilities. Except as otherwise expressly set forth in this Article VII and without limiting the indemnification provisions of Article VIII, each of the Parties shall be responsible for its respective Applicable Percentage of any costs and expenses (in addition to, without duplication, each such Party's share of any Indemnifiable Losses in respect of any such Legacy Liabilities pursuant to and in accordance with the relevant provisions of Article VIII) related to, arising out of, or resulting from any Legacy Liability. Such costs and expenses (including reimbursement for the out-of-pocket costs and expenses of defending, managing or providing assistance to RemainCo, as applicable, with respect to any Third Party Claim that is a Legacy Liability, which shall include any amounts with respect to a bond, prepayment or similar security or obligation required (or determined to be advisable by RemainCo) to be posted by RemainCo in respect of any claim) shall be included in the calculation of the amount of the applicable Legacy Liability in determining the reimbursement obligations of the other Party with respect thereto. In furtherance of the foregoing, each Party shall be entitled to reimbursement by the other Party (in an amount equal to their respective Applicable Percentages) of any out-of-pocket costs and expenses (which shall not include the costs of salaries and benefits of employees who are managing such Legacy Liability or any pro rata portion of overhead or other costs of employing such employees which would have been incurred by such employees' employer regardless of the employees' service as managing the Legacy Liability) related to, arising out of or resulting from defending, managing or providing assistance to RemainCo, as applicable, with respect to any such Legacy Liability from the

applicable Parties, from time to time when invoiced, in advance of a final determination or resolution of any Action related to a Legacy Liability. Any amounts owed in respect of any Legacy Liabilities, whether pursuant to this Article VII or in respect of Indemnifiable Losses pursuant to Article VIII, shall be remitted promptly to the Party owed such amount or the relevant third party to which such Liability is owed, at the sole discretion of RemainCo, after the Party entitled to such amount provides an invoice (including reasonable supporting information with respect thereto) to the Party owing such amount. It shall not be a defense to any obligation by ElectronicsCo to pay any amounts, whether pursuant to this Article VII or in respect of Indemnifiable Losses pursuant to Article VIII, in respect of any Legacy Liability that (a) ElectronicsCo was not consulted in the defense or management thereof, (b) ElectronicsCo's views or opinions as to the conduct of such defense were not accepted or adopted, (c) ElectronicsCo does not approve of the quality or manner of the defense thereof, (d) such Legacy Liability was incurred by reason of a settlement rather than by a judgment or other determination of Liability (even if such settlement was effected without the consent or over the objection of ElectronicsCo), (e) such liability does not constitute a Legacy Liability (which shall be subject to Section 7.2(e)), or (f) any other similar arguments are made.

Section 7.2 Management of Legacy Liabilities.

(a) Notwithstanding anything to the contrary in Section 7.1 and subject to Section 7.2(b), RemainCo has and shall have, on behalf of (x) itself and the other members of the RemainCo Group, and (y) ElectronicsCo and the other members of the ElectronicsCo Group and its and their past, present and future Affiliates (for which RemainCo has and shall have power of attorney), and ElectronicsCo, on behalf of itself and the other members of the ElectronicsCo Group (and its and their past, present and future Affiliates), hereby irrevocably grants to RemainCo, coupled with an interest, sole and exclusive authority to (i) commence, notice, prosecute, manage, control, conduct, administer, handle, manage, defend (or assume the defense of), litigate, arbitrate, mediate, settle, resolve, dispose of, cover or otherwise determine all matters whatsoever (including, as applicable, litigation strategy and choice of legal counsel or other professionals and any amendment, modification or supplement to any Contract (including Contracts with third parties and those Contracts listed on Schedule 7.2(a)) related to Legacy Liabilities) with respect to any Action or Third Party Claim related to, arising out of or resulting from any Legacy Liability; (ii) cover, make, submit, notice, control, conduct, administer, handle, manage, settle, prosecute, litigate, arbitrate, mediate, resolve, dispose of or otherwise determine all matters whatsoever with respect to any insurance claims or any other matters under or relating to any Policies (whether any such Policy is in existence or in effect, prior to, at or following the time of the Distribution) related to, arising out of or resulting from any Legacy Liability; and (iii) cover, make, submit, notice, control, conduct, administer, handle, manage, settle, prosecute, litigate, arbitrate, mediate, resolve, dispose of or otherwise determine claims against third parties who have agreed to indemnify any members of the ElectronicsCo Group, the RemainCo Group, or any of their respective past, present or future Affiliates, against any Indemnifiable Losses or other Liabilities related to, arising out of or resulting from any Legacy Liability, including any claims against third parties pursuant to the indemnification provisions of the Prior Transaction Agreements, in each of clauses (i), (ii) and (iii), including any Action or Third Party Claim related to, arising out of or resulting from (A) any alleged Liability that, if determined to be true, would constitute a Legacy Liability, and (B) any other Liability that RemainCo believes in good faith would constitute a Legacy Liability, in

each case, until such time as an Arbitral Tribunal finally determines (in accordance with Article X) that such Liability does not constitute a Legacy Liability pursuant to this Agreement. For the avoidance of doubt, the consent of ElectronicsCo or the other members of the ElectronicsCo Group shall not be required in respect of the matters or actions (or inactions) described in this Section 7.2(a).

(b) RemainCo shall on a monthly basis, or if a material development occurs (including if a settlement proposal has been made) as soon as reasonably practicable (and, in any event, no later than five (5) Business Days) thereafter, inform ElectronicsCo of the status of and developments relating to any matter involving a Legacy Liability and provide copies of any material document, notices or other materials related to such matters; provided, however, that the failure to provide such notice shall not release any Party from any of its obligations under this Article VII or under Article VIII except and solely to the extent that such Party (or a member of its Group) shall have been actually prejudiced as a result of such failure. ElectronicsCo shall, and shall cause the other members of its Group (and its and their respective then-Affiliates) to, cooperate fully with RemainCo in its management of any of such Legacy Liability, including with respect to any action (including the commencement of any Action) by RemainCo (or any member of its Group and its and their respective then-Affiliates) and omitting from taking any action that would be reasonably likely to interfere with or adversely affect the rights and powers of RemainCo pursuant to this Article VII, and shall take such actions in connection therewith that RemainCo reasonably requests (including providing access to ElectronicsCo's Records and employees (and those of the other members of its Group and its and their respective then-Affiliates) as set forth in Section 7.3).

(c) The maximum amount of Liability (including the costs of defense thereof) that any Party shall have with respect to any Legacy Liability shall be capped at its respective Applicable Percentage of any final settlement, resolution or disposition (including the costs of defense thereof) of any Action or Third Party Claim with respect to such Legacy Liability, and the costs and expenses incurred in respect of such Legacy Liability to the date of such final settlement, resolution or disposition (in respect of such Action or Third Party Claim, the "Cap"); provided that the Cap in respect of such Action or Third Party Claim shall not apply to any additional Legacy Liability arising or relating to a different Action or Third Party Claim notwithstanding that the subject matter of any such different Action or Third Party Claim may relate or be similar to, or the same as, such first Action or Third Party Claim.

(d) In the event RemainCo disputes whether any Liability constitutes a Legacy Liability, RemainCo may, but shall not be obligated to, commence prosecution or other assertion of such claim or right pending resolution of such dispute. In the event that RemainCo commences any such prosecution or assertion and, upon resolution of the dispute (pursuant to Article X), it is determined that such Liability does not constitute a Legacy Liability and that such Liability constitutes an ElectronicsCo Liability pursuant to the provisions of this Agreement, RemainCo shall cease the prosecution or assertion of such right or claim and the applicable Parties shall cooperate to transfer the control thereof to ElectronicsCo (unless otherwise agreed in writing by ElectronicsCo and RemainCo). In such event, ElectronicsCo shall promptly indemnify or reimburse, as applicable, RemainCo for all out-of-pocket costs and expenses incurred by the RemainCo Indemnitees to such date in connection with the prosecution or assertion of such claim or right.

(e) In the event ElectronicsCo disputes whether any Liability constitutes a Legacy Liability, it shall remit to RemainCo or the relevant third party to which such Liability is owed, at the sole discretion of RemainCo, all amounts invoiced by a RemainCo Indemnatee relating to such Liability in accordance with this Article VII, until it is finally determined by an Arbitral Tribunal (in accordance with Article X) that such Liability does not constitute a Legacy Liability, provided that RemainCo (i) has provided ElectronicsCo with written notice of the required indemnification in good faith and (ii) has paid or will substantially concurrently pay its Applicable Percentage of such Liability. Provided that ElectronicsCo has paid such amounts owed and invoiced, then ElectronicsCo may, but shall not be obligated to, commence prosecution or other assertion of a claim that such Liability is not a Legacy Liability in accordance with Article X. In the event that ElectronicsCo commences any such prosecution or assertion and, upon resolution of the dispute (in accordance with Article X), it is determined that such Liability does not constitute a Legacy Liability, then RemainCo shall promptly indemnify or reimburse, as applicable, ElectronicsCo any amounts invoiced to and remitted by ElectronicsCo relating to such Liability.

Section 7.3 Access to Information; Certain Services; Expenses.

(a) Access to Information and Employees by RemainCo. In connection with the matters set forth in Section 7.2, ElectronicsCo shall make readily available to and afford to RemainCo and its authorized accountants, counsel and other designated representatives reasonable access, subject to appropriate restrictions for classified, privileged or confidential information, to the employees, properties and Information of ElectronicsCo and the members of its Group insofar as such access relates to the relevant Legacy Liability; it being understood by the Parties that such access as well as any services provided pursuant to Section 7.3(b), may require a significant time commitment on the part of ElectronicsCo's employees and that any such commitment shall not otherwise limit any of the rights or obligations set forth in this Article VII. Nothing in this Section 7.3(a) shall require ElectronicsCo to violate any Law or any Contract with any third party regarding the confidentiality of confidential and proprietary information relating to that third party or its business; provided, however, that in the event that access to or the provision of any such Information would violate a Contract with a third party, ElectronicsCo shall use commercially reasonable efforts to seek to obtain such third party's Consent to the disclosure of such Information.

(b) Certain Services. ElectronicsCo shall make available to RemainCo, upon reasonable written request, ElectronicsCo's and its Subsidiaries' officers, directors, employees and agents to assist in the management (including, if applicable, as witnesses in any Action) of any Legacy Liabilities to the extent that such Persons may reasonably be required in connection with the prosecution, defense or day-to-day management of any Legacy Liability.

(c) Costs and Expenses Relating to Access by RemainCo. Except as otherwise provided in any Ancillary Agreement, the provision of access and other services pursuant to this Section 7.3 shall be at no additional cost or expense of RemainCo or ElectronicsCo (other than for (i) actual out-of-pocket costs and expenses which shall be allocated as set forth in Section 7.1 and (ii) costs incurred directly or indirectly by ElectronicsCo affording such access and other services which shall be the responsibility of ElectronicsCo).

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Section 7.4 Notice Relating to Legacy Liabilities.

(a) In the event that ElectronicsCo or any member of its Group (or any of their respective then-Affiliates), becomes aware of any matter reasonably relevant to RemainCo's ongoing or future management, prosecution, defense and/or administration of any Legacy Liability, ElectronicsCo shall promptly (but in any event within fifteen (15) days of becoming aware, unless, by its nature the subject matter of such notice would require earlier notice) notify RemainCo of any such matter (setting forth in reasonable detail the subject matter thereof); provided, however, that the failure to provide such notice shall not release any Party from any of its obligations under this Article VII or under Article VIII except and solely to the extent that such Party (or a member of its Group) shall have been actually prejudiced as a result of such failure.

(b) In the event that any of the Parties disagrees whether a claim, obligation or Liability is a Legacy Liability or whether such claim, obligation or Liability constitutes a Liability allocated to one of the Parties (or its Group) pursuant to this Agreement, then such matter shall be resolved pursuant to and in accordance with the dispute resolution provisions set forth in Article X.

Section 7.5 Cooperation with Governmental Entity. If, in connection with any Legacy Liability, ElectronicsCo (or any member of its Group or its or their respective then-Affiliates) is required by Law to respond to and/or cooperate with a Governmental Entity, ElectronicsCo (and/or any applicable member of its Group and any of its or their respective and applicable then-Affiliates) shall be entitled to cooperate and respond to such Governmental Entity after, to the extent practicable under the specific circumstances, consultation with RemainCo of such Legacy Liability; provided that to the extent such consultation was not practicable, ElectronicsCo shall promptly inform RemainCo of such cooperation and/or response to the Governmental Entity and the subject matter thereof.

Section 7.6 Default. In the event that one or more of the Parties defaults in any full or partial payment in respect of any Legacy Liability (as provided in this Article VII and in Article VIII), then the non-defaulting Party shall be required to pay the amount in default; provided, however, that any such payment by a non-defaulting Party shall in no way release the defaulting Party from its obligations to pay its obligations in respect of such Legacy Liability (both for past and future obligations) and the non-defaulting Party may exercise any available legal remedies available against such defaulting Party; provided, further, that interest shall accrue on any such defaulted amounts at a rate per annum equal to the then applicable SOFR (in effect on the date on which such payment was due) plus 3% calculated for the actual number of days elapsed, accrued from the date on which such payment was due up to the date of the actual receipt of payment (or the maximum legal rate, whichever is lower).

Section 7.7 Conflict. In the event of any conflict between Article VII, on the one hand, and Article VI, Article VIII, Article IX or Article XI, on the other hand, with respect to the matters therein, the terms and conditions of Article VII shall govern, except for Sections 8.10 and 8.11.

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**ARTICLE VIII**  
**INDEMNIFICATION**

Section 8.1 Release of Pre-Distribution Claims.

(a) Except (i) as provided in Section 8.1(b), (ii) as may be otherwise expressly provided in this Agreement and (iii) for any matter for which any Indemnitee is entitled to indemnification pursuant to this Article VIII, each Party, on behalf of itself and each member of its Group, and to the extent permitted by Law, all Persons who at any time prior to the Distribution were directors, officers, agents or employees of any member of its respective Group (in their respective capacities as such), in each case, together with their respective heirs, executors, administrators, successors and assigns, (x) do hereby irrevocably but effective at the time of and conditioned upon the occurrence of the Distribution, and (y) at the time of the Distribution shall, remise, release and forever discharge the other Party and the other members of such other Party's Group and their respective successors and all Persons who at any time prior to the Distribution were shareholders, directors, officers or employees of any member of such other Party's Group (in their capacity as such), in each case, together with their respective heirs, executors, administrators, successors and assigns from any and all Liabilities whatsoever, whether at Law or in equity, whether arising under any Contract, by operation of Law or otherwise, in each case, existing or arising from any acts or events occurring or failing to occur or alleged to have occurred or to have failed to occur or any conditions existing or alleged to have existed on or before the Distribution, including in connection with the Internal Reorganization, the Distribution and any of the other transactions contemplated hereunder and under the Ancillary Agreements; provided, however, that no employee shall be remised, released and discharged to the extent that such Liability relates to, arises out of or results from intentional misconduct by such employee.

(b) Nothing contained in this Agreement, including Section 8.1(a) or Section 2.4, shall impair or otherwise affect any right of any Party, any member of either Group, or any Party's or member of a Group's respective heirs, executors, administrators, successors and assigns to enforce this Agreement, any Ancillary Agreement or any agreements, arrangements, commitments or understandings that continue in effect after the Distribution pursuant to the terms of this Agreement or any Ancillary Agreement. In addition, nothing contained in Section 8.1(a) shall release any Person from:

(i) any Liability Assumed, Transferred or allocated to a Party or a member of such Party's Group pursuant to or as contemplated by, or any other Liability of any member of such Group under, this Agreement or any Ancillary Agreement, including (A) with respect to ElectronicsCo, any ElectronicsCo Liability, and (B) with respect to RemainCo, any RemainCo Liability;

(ii) any Legacy Liability;

(iii) any Specified DuPont Shared Liabilities;



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(iv) any Liability under any Other Surviving Intergroup Account;

(v) any Liability that the Parties may have with respect to indemnification pursuant to this Agreement or any Ancillary Agreement or otherwise for claims or Actions brought against any Indemnitee by third parties, which Liability shall be governed by the provisions of this Agreement and, in particular, this Article VII and Article VIII, as applicable, or, in the case of any Liability arising out of an Ancillary Agreement, the applicable provisions of the Ancillary Agreement; or

(vi) any Liability the release of which would result in a release of any Person other than the Persons released in Section 8.1(a); provided that the Parties agree not to bring any Action or permit any other member of their respective Group to bring any Action against a Person released in Section 8.1(a) with respect to such Liability.

In addition, nothing contained in Section 8.1(a) shall release (x) RemainCo from indemnifying any director, officer or employee of ElectronicsCo who was a director, officer or employee of RemainCo or any of its Subsidiaries on or prior to the Distribution, to the extent such director, officer or employee is or becomes a named defendant in any Action with respect to which he or she was entitled to such indemnification pursuant to obligations existing prior to the Distribution; it being understood that if the underlying obligation giving rise to such Action is an ElectronicsCo Liability, ElectronicsCo shall indemnify RemainCo for such Liability (including RemainCo's costs to indemnify the director, officer or employee) in accordance with the provisions set forth in this Article VIII, and (y) ElectronicsCo from indemnifying any director, officer or employee of RemainCo who was a director, officer or employee of ElectronicsCo or any of its Subsidiaries on or prior to the Distribution, as the case may be, to the extent such director, officer or employee is or becomes a named defendant in any Action with respect to which he or she was entitled to such indemnification pursuant to obligations existing prior to the Distribution; it being understood that if the underlying obligation giving rise to such Action is a RemainCo Liability, RemainCo shall indemnify ElectronicsCo for such Liability (including ElectronicsCo's costs to indemnify the director, officer or employee) in accordance with the provisions set forth in this Article VIII.

(c) From and after the time of the Distribution, each Party shall not, and shall not permit any member of its Group, or any of their respective Affiliates, to, make any (or fail to withdraw any previously existing) claim, demand or offset, or commence any (or fail to withdraw any previously existing) Action asserting any claim, demand or offset, including any claim for indemnification, against the other Party or any member of such other Party's Group, or any other Person released pursuant to Section 8.1(a) or their respective successors with respect to any Liabilities released pursuant to Section 8.1(a).

(d) It is the intent of each Party, by virtue of the provisions of this Section 8.1, to provide for, at the time of the Distribution, a full and complete release and discharge of all Liabilities existing or arising from all acts and events occurring or failing to occur or alleged to have occurred or to have failed to occur and all conditions existing or alleged to have existed on or before the Distribution, whether known or unknown, between any Party (and/or a member of such Party's Group), on the one hand, and the other Party (and/or a member

of such Party's or parties' Group), on the other hand (including any contractual agreements or arrangements existing or alleged to exist between or among any such members on or before the Distribution), except as specifically set forth in Sections 8.1(a) and 8.1(b). At any time, at the reasonable request of the other Party, each Party shall cause each member of its respective Group and, to the extent practicable each other Person on whose behalf it released Liabilities pursuant to this Section 8.1 to execute and deliver releases reflecting the provisions hereof.

Section 8.2 Indemnification by RemainCo. In addition to any other provisions of this Agreement requiring indemnification and except as otherwise specifically set forth in any provision of this Agreement, following the Distribution, RemainCo shall, and shall cause the other members of the RemainCo Group to, indemnify, defend and hold harmless the ElectronicsCo Indemnitees from and against any and all Indemnifiable Losses of the ElectronicsCo Indemnitees, to the extent relating to, arising out of or resulting from (a) the RemainCo Liabilities or any Third Party Claim that would, if resolved in favor of the claimant, constitute a RemainCo Liability or (b) any breach by RemainCo of any provision of this Agreement.

Section 8.3 Indemnification by ElectronicsCo. In addition to any other provisions of this Agreement requiring indemnification and except as otherwise specifically set forth in any provision of this Agreement, following the Distribution, ElectronicsCo shall, and shall cause the other members of the ElectronicsCo Group to, indemnify, defend and hold harmless the RemainCo Indemnitees from and against any and all Indemnifiable Losses of the RemainCo Indemnitees, to the extent relating to, arising out of or resulting from (a) the ElectronicsCo Liabilities or any Third Party Claim that would, if resolved in favor of the claimant, constitute an ElectronicsCo Liability or (b) any breach by ElectronicsCo of any provision of this Agreement.

#### Section 8.4 Procedures for Third Party Claims.

(a) If a claim or demand is made against a RemainCo Indemnitee or an ElectronicsCo Indemnitee (each, an "Indemnitee") by any Person who is not a member of the ElectronicsCo Group or RemainCo Group (a "Third Party Claim") as to which such Indemnitee is or may be entitled to indemnification pursuant to this Agreement, such Indemnitee shall notify the Party which is or may be required pursuant to this Article VIII to make such indemnification (the "Indemnifying Party") in writing, and in reasonable detail, of the Third Party Claim as promptly as practicable (and in any event within ten (10) days) after receipt by such Indemnitee of written notice of the Third Party Claim. If ElectronicsCo shall receive notice or otherwise learn of the assertion of a Third Party Claim which may reasonably be determined to be a Legacy Liability, ElectronicsCo shall give RemainCo (in accordance with Article VII) written notice thereof within ten (10) days after such Person becomes aware of such Third Party Claim; provided, however, that the failure to provide notice of any such Third Party Claim pursuant to this or the preceding sentence shall not release the Indemnifying Party from any of its obligations under this Article VIII except and solely to the extent the Indemnifying Party shall have been actually materially prejudiced as a result of such failure. Thereafter, the Indemnitee shall deliver to the Indemnifying Party (and, as applicable, to RemainCo for a Third Party Claim which may reasonably be determined to be a Legacy Liability), as promptly as practicable (and in any event within five (5) Business Days) after the Indemnitee's receipt thereof, copies of all notices and documents (including court papers) received by the Indemnitee relating to the Third Party Claim.

(b) Other than in the case of (i) Taxes addressed in the Tax Matters Agreement, which shall be addressed as set forth therein, (ii) indemnification by a beneficiary Party of a guarantor Party pursuant to Section 2.10(c) (the defense of which shall be controlled by the beneficiary Party), (iii) a Legacy Liability (the defense of which shall be controlled by RemainCo as provided for in Article VII) or (iv) any Liabilities relating to, arising out of or resulting from any Specified Transaction Expenses or the matters related thereto (the defense of which shall be controlled by RemainCo), (A) an Indemnifying Party shall be entitled (but shall not be required) to assume and control the defense of any Third Party Claim, and (B) if it does not assume the defense of such Third Party Claim, to participate in the defense of such Third Party Claim, in each case, at such Indemnifying Party's own cost and expense and by such Indemnifying Party's own counsel that is reasonably acceptable to the applicable Indemnitees (after consultation in good faith with the applicable Indemnitees), if it gives prior written notice of its intention to do so to the applicable Indemnitees within thirty (30) days of the Indemnifying Party's receipt of notice of the relevant Third Party Claim from the applicable Indemnitees pursuant to Section 8.4(a); provided, however, that the Indemnifying Party shall not be entitled to assume the defense of any Third Party Claim pursuant to this Section 8.4(b) to the extent such Third Party Claim (x) is an allegation of a criminal violation, (y) seeks injunctive, equitable or other relief other than monetary damages against the Indemnitee (provided that such Indemnitee shall reasonably cooperate with the Indemnifying Party, at the request of the Indemnifying Party, in seeking to separate any such claims from any related claim for monetary damages if this clause (y) is the sole reason that such Third Party Claim is a Non-Assumable Third Party Claim) or (z) is made by a Governmental Entity (clauses (x), (y) and (z)), the "Non-Assumable Third Party Claims". After notice from an Indemnifying Party to an Indemnitee of the Indemnifying Party's election to assume the defense of a Third Party Claim, such Indemnitee shall have the right to employ separate counsel and to participate in (but not control) the defense, compromise, or settlement thereof, at its own expense and, in any event, shall cooperate with the Indemnifying Party in such defense and make available to the Indemnifying Party, at the Indemnifying Party's expense, all witnesses, pertinent information, materials and other information in such Indemnitee's possession or under such Indemnitee's control relating thereto as are reasonably required by the Indemnifying Party; provided, however, that in the event a conflict of interest exists, or is reasonably likely to exist, that would make it inappropriate in the reasonable judgment of the applicable Indemnitee(s) for the same counsel to represent both the Indemnifying Party and the applicable Indemnitee(s), such Indemnitee(s) shall be entitled to retain, at the Indemnifying Party's expense, separate counsel as required by the applicable rules of professional conduct with respect to such matter. In the event that the Indemnifying Party exercises the right to assume and control the defense of a Third Party Claim as provided above, (I) the Indemnifying Party shall keep the Indemnitee(s) apprised of all material developments in such defense, (II) the Indemnifying Party shall not withdraw from the defense of such Third Party Claim without providing advance notice to the Indemnitee(s) reasonably sufficient to allow the Indemnitee(s) to prepare to assume the defense of such Third Party Claim, and (III) the Indemnifying Party shall conduct the defense of the Third Party Claim actively and diligently, including the posting of any bonds or other security required in connection with the defense of such Third Party Claim. Notwithstanding anything in this Section 8.4 to the contrary, for the avoidance of doubt, the defense of any Third Party Claims in respect of Legacy Liabilities shall be controlled by RemainCo in accordance with Article VII.

(c) Other than in the case of a Legacy Liability or a Non-Assumable Third Party Claim, if an Indemnifying Party elects not to assume responsibility for defending a Third Party Claim or fails to notify an Indemnitee of its election as provided in Section 8.4(b), or if the Indemnifying Party fails to actively and diligently defend the Third Party Claim (including by withdrawing or threatening to withdraw from the defense thereof), the applicable Indemnitee(s) may defend such Third Party Claim at the cost and expense of the Indemnifying Party. If the Indemnitee is conducting the defense of any Third Party Claim, the Indemnifying Party shall cooperate with the Indemnitee in such defense and make available to the Indemnitee, at the Indemnifying Party's expense, all witnesses, pertinent information, material and information in such Indemnifying Party's possession or under such Indemnifying Party's control relating thereto as are reasonably required by the Indemnitee pursuant to a joint defense agreement to be entered into by Indemnitee and the Indemnifying Party; provided, however, that such access shall not require the Indemnifying Party to disclose any information the disclosure of which would, in the reasonable judgment of the Indemnifying Party, result in the loss of any existing attorney-client privilege with respect to such information or violate any applicable Law.

(d) Other than any Third Party Claim that is in respect of a Legacy Liability, which shall be governed by Article VII, no Indemnitee may admit any liability with respect to, consent to entry of any judgment of, or settle, compromise or discharge any Third Party Claim without the prior written consent of the Indemnifying Party, which consent shall not be unreasonably withheld, conditioned or delayed. If an Indemnifying Party has failed to assume the defense of a Third Party Claim, it shall not be a defense to any obligation to pay any amount in respect of such Third Party Claim that the Indemnifying Party was not consulted in the defense thereof, that such Indemnifying Party's views or opinions as to the conduct of such defense were not accepted or adopted, that such Indemnifying Party does not approve of the quality or manner of the defense thereof or that such Third Party Claim was incurred by reason of a settlement rather than by a judgment or other determination of liability.

(e) In the case of a Third Party Claim (except for any Third Party Claim that is in respect of a Legacy Liability, which with respect to the subject matter of this Section 8.4(e), shall be governed by Article VII), the Indemnifying Party shall not admit any liability with respect to, consent to entry of any judgment of, or settle, compromise or discharge, the Third Party Claim without the prior written consent of the Indemnitee (which consent shall not be unreasonably withheld, conditioned or delayed) unless such settlement or judgment (i) completely and unconditionally releases the Indemnitee in connection with such matter, (ii) provides relief consisting solely of money damages borne by the Indemnifying Party and (iii) does not involve any admission by the Indemnitee of any wrongdoing or violation of Law.

(f) Notwithstanding anything herein or in any Ancillary Agreement or any Conveyancing and Assumption Instrument to the contrary, other than (x) actions for specific performance or injunctive or other equitable relief pursuant to Section 12.19, and (y) the indemnification provisions in Section 2.2(d), Section 2.5(c), Section 2.10, Section 5.5, Section 6.2 and Section 6.4, (i) the indemnification provisions of this Article VIII shall be the sole and exclusive remedy of the Parties, the parties to the Conveyancing and Assumption

Instruments and any Indemnitee for any breach of this Agreement or any Conveyancing and Assumption Instrument and for any failure to perform and comply with any covenant or agreement in this Agreement or in any Conveyancing and Assumption Instrument; (ii) each Party and each Indemnitee expressly waives and relinquishes any and all rights, claims or remedies it may have with respect to the foregoing other than under this Article VIII against any Indemnifying Party; (iii) none of the Parties, the members of their respective Groups or any other Person may bring a claim under any Conveyancing and Assumption Instrument; (iv) any and all claims arising out of, resulting from, or in connection with the Internal Reorganization or the other transactions contemplated in this Agreement must be brought under and in accordance with the terms of this Agreement; and (v) no breach of this Agreement or any Conveyancing and Assumption Instrument shall give rise to any right on the part of any Party or party thereto, after the consummation of the Distribution, to rescind this Agreement, any Conveyancing and Assumption Instrument or any of the transactions contemplated hereby or thereby, except as expressly provided in Section 2.6(a) and Section 2.6(b); provided, however, that with respect to the transactions contemplated by this Agreement (including the Internal Reorganization and Distribution), the Parties may also bring claims arising under the Tax Matters Agreement under and in accordance with the Tax Matters Agreement and claims arising under the Employee Matters Agreement under and in accordance with the Employee Matters Agreement. Each Party shall cause the members of its Group to comply with this Section 8.4(f).

(g) The provisions of this Article VIII shall apply to Third Party Claims that are already pending or asserted as well as Third Party Claims brought or asserted after the date of this Agreement. There shall be no requirement under this Section 8.4 to give a notice with respect to the existence of any Third Party Claim that exists as of the Effective Time. Each Party on behalf of itself and each other member of its Group acknowledges that Liabilities for Actions (regardless of the parties to the Actions) may be partly RemainCo Liabilities and partly ElectronicsCo Liabilities. If the Parties cannot agree on the allocation of any such Liabilities for Actions, they shall resolve the matter of such allocation pursuant to the procedures set forth in Article X. No Party shall, nor shall any Party permit the other members of its Group (or their respective then-Affiliates) to, file Third Party Claims or cross-claims against the other Party or any members of the other Group in an Action in which a Third Party Claim is being resolved.

(h) This Section 8.4, Section 8.5 and Section 8.6 shall not apply to Tax Contests, which shall be governed exclusively by the Tax Matters Agreement, or Legacy Liabilities, which shall be governed exclusively by Article VII.

Section 8.5 Procedures for Direct Claims. An Indemnitee shall give the Indemnifying Party written notice of any matter that an Indemnitee has determined has given or would reasonably be expected to give rise to a right of indemnification under this Agreement (other than a Third Party Claim which shall be governed by Section 8.4(a)), within thirty (30) days of such determination, stating the amount of the Indemnifiable Loss claimed, if known, and method of computation thereof, and containing a reference to the provisions of this Agreement in respect of which such right of indemnification is claimed by such Indemnitee or arises; provided, however, that the failure to provide such written notice shall not release the Indemnifying Party from any of its obligations except and solely to the extent the Indemnifying Party shall have been actually materially prejudiced as a result of such failure.

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Section 8.6 Cooperation in Defense and Settlement.

(a) With respect to any Third Party Claim (other than in respect of a Legacy Liability) that implicates both Parties (or any member of such Parties' respective Groups or their respective then-Affiliates) in a material respect, including due to the allocation of Liabilities, the reasonably foreseeable impact on the Businesses of the relief sought or the responsibilities for management of defense and related indemnities pursuant to this Agreement, the Parties agree to, and shall cause the members of such Parties' respective Group to, use reasonable best efforts to cooperate fully (including providing signatures required in connection with the resolution of any Third Party Claim in accordance with Section 8.4 and this Section 8.6) and maintain a joint defense (in a manner that will preserve for all Parties any Privilege). The Party that is not responsible for managing the defense of any such Third Party Claim shall be consulted with respect to significant matters relating thereto and may, if necessary or helpful, retain counsel to assist in the defense of such claims. Notwithstanding the foregoing, nothing in this Section 8.6 shall derogate from any Party's rights to control the defense of any Action in accordance with Section 8.4.

(b) (i) Notwithstanding anything to the contrary in this Agreement, with respect to any Third Party Claim where the resolution of such Third Party Claim by order, judgment, settlement or otherwise, would reasonably be expected to include any condition, limitation or other stipulation that would, in the reasonable judgment of RemainCo, significantly and adversely impact the conduct of the RemainCo Business or result in a significant adverse change to any member of the RemainCo Group at shared locations where any member of the ElectronicsCo Group and any member of the RemainCo Group, as applicable, have operating agreements, governmental permits or joint obligations to a Governmental Entity with interdependencies, RemainCo shall have, at RemainCo's expense, the reasonable opportunity to consult, advise and comment in all preparation, planning and strategy regarding any such Third Party Claim, including with regard to any drafts of notices and other conferences and communications to be provided or submitted by any member of the ElectronicsCo Group to any third party involved in such Third Party Claim (including any Governmental Entity), to the extent that RemainCo's participation does not affect any Privilege in a material and adverse manner; provided that to the extent that any such Third Party Claim requires the submission by any member of the ElectronicsCo Group of any Information relating to any current or former officer or director of any member of the RemainCo Group, such Information will only be submitted in a form approved by RemainCo in its reasonable discretion, and (ii) notwithstanding anything to the contrary in this Agreement, with respect to any Third Party Claim where the resolution of such Third Party Claim by order, judgment, settlement or otherwise, would reasonably be expected to include any condition, limitation or other stipulation that would, in the reasonable judgment of ElectronicsCo, significantly and adversely impact the conduct of the ElectronicsCo Business or result in a significant adverse change to any member of the ElectronicsCo Group at shared locations where any member of the ElectronicsCo Group and any member of the RemainCo Group, as applicable, have operating agreements, governmental permits or joint obligations to a Governmental Entity with interdependencies, ElectronicsCo shall have, at ElectronicsCo's expense, the reasonable opportunity to consult, advise and comment in all preparation, planning and strategy regarding any such Third Party Claim, including with regard to any drafts of notices and other conferences and communications to be provided or submitted by any member of the RemainCo Group to any third party involved in

such Third Party Claim (including any Governmental Entity), to the extent that ElectronicsCo's participation does not affect any Privilege in a material and adverse manner; provided that to the extent that any such Third Party Claim requires the submission by any member of the RemainCo Group of any Information relating to any current or former officer or director of any member of the ElectronicsCo Group, such Information will only be submitted in a form approved by ElectronicsCo in its reasonable discretion. (A) With regard to the matters specified in the preceding clause (i), RemainCo shall have a right to consent to any compromise or settlement related thereto by any member of the ElectronicsCo Group to the extent that the effect on any member of the RemainCo Group would reasonably be expected to result in a significant adverse effect on the financial condition or results of operations of RemainCo and its Subsidiaries at such time or the RemainCo Business conducted thereby at such time, taken as a whole, and such significant adverse effect would reasonably be expected to be greater with respect to the RemainCo Group, taken as a whole, than the effect on the ElectronicsCo Group, taken as a whole, and (B) with regard to the matters specified in the preceding clause (ii), ElectronicsCo shall have a right to consent to any compromise or settlement related thereto by any member of the RemainCo Group to the extent that the effect on any member of the ElectronicsCo Group would reasonably be expected to result in a significant adverse effect on the financial condition or results of operations of ElectronicsCo and its Subsidiaries at such time or the ElectronicsCo Business conducted thereby at such time, taken as a whole, and such significant adverse effect would reasonably be expected to be greater with respect to the ElectronicsCo Group, taken as a whole, than the effect on the RemainCo Group, taken as a whole.

(c) Each of RemainCo and ElectronicsCo agrees on behalf of itself and the other members of its Group that at all times from and after the Effective Time, if an Action is commenced by a third party naming both Parties (or any member of such Parties' respective Groups or their respective then-Affiliates) as defendants and with respect to which one or more named Parties (or any member of such Party's respective Group or their respective then-Affiliates) is a nominal defendant and/or such Action is otherwise not a Liability allocated to such named Party under this Agreement, then the other Party shall use, and shall cause the other members of its respective Group to use, commercially reasonable efforts to cause such nominal defendant to be removed from such Action, as soon as reasonably practicable (including using commercially reasonable efforts to petition the applicable court to remove such Party (or member of its Group or their respective then-Affiliates) as a defendant to the extent such Action relates solely to Assets or Liabilities that the other Party (or Group) has been allocated pursuant to this Agreement). In the event of an Action in which the Indemnifying Party is not a named defendant, if either the Indemnatee or Indemnifying Party shall so request, each Party shall, and shall cause the other members of its Group to, endeavor to substitute the Indemnifying Party for the named defendant, if at all practicable and advisable under the circumstances. If such substitution or addition cannot be achieved for any reason or is not requested, management of the Action shall be determined as set forth in this Article VIII.

Section 8.7 Indemnification Payments. Indemnification required by this Article VIII shall be made by periodic payments of the amount of Indemnifiable Loss in a timely fashion during the course of the investigation or defense, as and when bills are received or an Indemnifiable Loss or Liability is incurred. The applicable Indemnatee shall deliver to the Indemnifying Party, upon request, reasonably satisfactory documentation setting forth the basis for the amount of such payments, including documentation with respect to calculations made and

consideration of any Insurance Proceeds or Third Party Proceeds that actually reduce the amount of such Indemnifiable Losses; provided that the delivery of such documentation shall not be a condition to the payments described in the first sentence of this Section 8.7, but the failure to deliver such documentation may be the basis for the Indemnifying Party to contest whether the applicable Indemnifiable Loss or Liability was incurred by the applicable Indemnitee.

Section 8.8 Indemnification Obligations Net of Insurance Proceeds and Other Amounts.

(a) Any Indemnifiable Loss subject to indemnification pursuant to this Article VIII, including, for the avoidance of doubt, in respect of any Legacy Liability, shall be calculated (i) net of Insurance Proceeds that actually reduce the amount of the Indemnifiable Loss and (ii) net of any proceeds received by the Indemnitee from any third party (net of any deductible, retention amount or increased insurance premiums incurred by the Indemnifying Party in obtaining such recovery) for such Liability that actually reduce the amount of the Indemnifiable Loss ("Third Party Proceeds"). Accordingly, the amount which any Indemnifying Party is required to pay pursuant to this Article VIII to any Indemnitee pursuant to this Article VIII shall be reduced by any Insurance Proceeds or Third Party Proceeds theretofore actually recovered by or on behalf of the Indemnitee in respect of the related Indemnifiable Loss. If an Indemnitee receives a payment required by this Agreement from an Indemnifying Party in respect of any Indemnifiable Loss (an "Indemnity Payment") and subsequently receives Insurance Proceeds or Third Party Proceeds, then the Indemnitee shall pay to the Indemnifying Party an amount equal to the excess of the Indemnity Payment received over the amount of the Indemnity Payment that would have been due if the Insurance Proceeds or Third Party Proceeds had been received, realized or recovered before the Indemnity Payment was made.

(b) The Parties hereby agree that an insurer who would otherwise be obligated to pay any claim shall not be relieved of the responsibility with respect thereto and, solely by virtue of the indemnification provisions hereof, shall not have any subrogation rights with respect thereto, and that no insurer or any other third party shall be entitled to a "windfall" (e.g., a benefit it would not otherwise be entitled to receive, or the reduction or elimination of an insurance coverage obligation that it would otherwise have, in the absence of the indemnification or release provisions) by virtue of any provision contained in this Agreement. The Indemnitee shall use commercially reasonable efforts to seek to collect or recover any Insurance Proceeds and any Third Party Proceeds to which the Indemnitee is entitled in connection with any Indemnifiable Loss for which the Indemnitee seeks indemnification pursuant to this Article VIII; provided that the Indemnitee's inability, following such efforts, to collect or recover any such Insurance Proceeds or Third Party Proceeds shall not limit the Indemnifying Party's obligations hereunder.

(c) No Indemnitee shall be entitled to any payment or indemnification more than once with respect to the same Indemnifiable Loss.



(d) In addition to the provisions of Section 8.8(a), any Indemnifiable Loss subject to indemnification pursuant to this Article VIII (including, for the avoidance of doubt, in respect of any Legacy Liability), shall (i) be reduced by the amount of any reduction in Taxes for which the Indemnatee is responsible (including Taxes for which a Party is responsible under the Tax Matters Agreement) actually realized as a result of the event giving rise to the payment by the end of the taxable year in which the payment is made, and (ii) be increased if and to the extent necessary to ensure that, after all required Taxes on the payment are paid (including Taxes attributable to any increases in the payment under this Section 8.8(d)), the Indemnatee receives the amount it would have received if the payment was not taxable or did not result in an increase in Taxes. For purposes of the preceding sentence, with respect to any Legacy Liability, the Tax rate applicable to (i) any deduction available by reason of the event giving rise to the payment, or (ii) any taxable income recognized by reason of the receipt of a payment, shall be deemed to equal the Assumed Tax Rate, with the associated reduction in Taxes or increase in Taxes, as the case may be, deemed to occur in the year of payment. Notwithstanding the preceding provisions of this Section 8.8(d), with respect to any payment in respect of any Legacy Liabilities (including pursuant to Article VII), (i) the Party responsible for such payment hereunder (the “LL Paying Party”) shall pay the gross amount (without reduction pursuant to this Section 8.8(d)) to the other Party (the “Non-Paying Party”) or the applicable third party to whom such Legacy Liabilities are owed, in RemainCo’s discretion as contemplated by Article VII, (ii) the Non-Paying Party shall pay the amount of any reduction in Taxes described in clause (i) of the first sentence of this Section 8.8(d), to the LL Paying Party as and when any such reduction is realized by the Non-Paying Party by the end of the taxable year in which the LL Paying Party made the payment in respect of such Legacy Liabilities, and (iii) the LL Paying Party shall pay the amount of any increase in payments described in clause (ii) of the first sentence of this Section 8.8(d), to the Non-Paying Party promptly following the payment of the Taxes giving rise to such increase in Taxes. In the event any reduction in Taxes for which payment is made pursuant to clause (ii) of the immediately preceding sentence (the “Tax Benefit Payment”) is later determined to be invalid or otherwise disallowed by an applicable Taxing Authority, the LL Paying Party shall promptly pay to the Non-Paying Party the amount of such Tax Benefit Payment (net of any documented out-of-pocket costs and expenses incurred by the LL Paying Party in connection with paying over such amount).

#### Section 8.9 Additional Matters: Survival of Indemnities.

(a) The indemnity agreements contained in this Article VIII shall remain operative and in full force and effect, regardless of (i) any investigation made by or on behalf of any Indemnatee; (ii) the knowledge by the Indemnatee of Indemnifiable Losses for which it might be entitled to indemnification hereunder; and (iii) any termination of this Agreement. The indemnity agreements contained in this Article VIII shall survive the Distribution.

(b) The rights and obligations of any member of the RemainCo Group or any member of the ElectronicsCo Group, in each case, under this Article VIII shall survive the sale or other Transfer by any Party or its respective Subsidiaries of any Assets or businesses or the assignment by it of any Liabilities, with respect to any Indemnifiable Loss of any Indemnatee related to such Assets, businesses or Liabilities.

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Section 8.10 Environmental Matters.

(a) Substitution. Except with respect to any Legacy Liability that constitutes an Environmental Liability, ElectronicsCo and RemainCo, as the case may be, shall use their reasonable best efforts to obtain any Consents, transfers, assignments, assumptions, waivers or other legal instruments necessary to cause such party or a member of its Group to be fully substituted for any member of the Group of the other Party with respect to any order, decree, judgment, agreement or Action that is in effect as of the immediately prior to the Distribution in connection with any ElectronicsCo Environmental Liability or any RemainCo Environmental Liability, respectively. ElectronicsCo or RemainCo, as the case may be, shall inform third parties associated with such matter, including Governmental Entities, about the assumption of such Liability by the Party to which it has been allocated and request that such Persons direct all communications, requirements, notifications and/or official letters related to such matters to the Party to which it has been allocated. The members of such other Group (and their successors) shall use commercially reasonable efforts to provide necessary assistance or signatures to ElectronicsCo or RemainCo, as the case may be, to achieve the purposes of this Section 8.10(a). Until such time as the substitutions outlined above have been completed, ElectronicsCo or RemainCo, as the case may be, shall comply with the terms and conditions of all such orders, decrees, judgments, agreements and Actions in respect of which it has been allocated Environmental Liabilities pursuant to this Agreement. With respect to any Legacy Liability that constitutes an Environmental Liability, RemainCo (or its designated Affiliate) or ElectronicsCo (or its designated Affiliate) shall be the Performing Party (as defined below) in accordance with Section 8.10(b) and ElectronicsCo and RemainCo shall use their reasonable best efforts to effect such substitutions and obtain such consents as may be required to have such Performing Party assume the control and performance of such matter in accordance with Section 8.10(b) and to inform any associated third parties consistent with this paragraph.

(b) Remediation Procedures.

(i) RemainCo shall be responsible for undertaking and controlling the response to any Legacy Liability that constitutes an Environmental Liability including, without limitation, undertaking and controlling any environmental investigations, monitoring, remediation or other actions with respect to such liability and controlling the defenses of any Actions related to such liability ("Response Action"), subject to Section 8.10(b)(ii) and any right of (x) any member of the AgCo Group, MatCo Group or Spinco Group to undertake such Response Action pursuant to the DWDP SDA or the Neptune SDA, as applicable, or (y) any other third parties to the extent that the right to undertake such Response Action was given to such third party pursuant to an agreement existing prior to the Distribution.

(ii) With respect to any Legacy Liability that constitutes an Environmental Liability arising out of, resulting from or relating to those sites where a member of the ElectronicsCo Group is the Relevant Site Party as of the Distribution, ElectronicsCo shall be responsible for undertaking the Response Action, at the direction of RemainCo (subject to RemainCo's sole and exclusive authority and other rights over or related to such matters pursuant to Section 7.2), subject to any right of (x) any member of the AgCo Group, MatCo Group or Spinco Group to undertake such Response Action pursuant to the DWDP SDA or the Neptune SDA, as applicable, or (y) any other third parties to the extent that the right to undertake such Response Action was given to such third party pursuant to an agreement existing prior to the Distribution.

(iii) With respect to any Environmental Liability that does not constitute a Legacy Liability, except as provided below, the Parties shall follow the general procedures for indemnification set forth in this Article VIII with respect to any claim for indemnification pursuant to Sections 8.2 or 8.3, relating to remediation of contaminated environmental media, where the owner or primary tenant of the impacted property is not a member of the Group of the Party to which such liability for remediation has been allocated. For such matters, if the Indemnifying Party acknowledges in writing that it is obligated to provide indemnification pursuant to this Section 8.10(b) with respect to such remediation Liability, such Party (and members of its Group) shall be entitled (but shall not be required) to undertake and control the Response Action, subject to any right of (x) any member of the AgCo Group, MatCo Group or Spinco Group to undertake such Response Action pursuant to the DWDP SDA or the Neptune SDA, as applicable, or (y) any other third parties to the extent that the right to undertake such Response Action was given to such third party pursuant to an agreement existing prior to the Distribution.

(iv) The Party (and members of its Group) undertaking and controlling the Response Action pursuant to clauses (i), (ii) or (iii), including as set forth on Schedule 8.10(b), shall be referred to as the “Performing Party”.

(c) If the Performing Party is not both (x) the Relevant Site Party and (y) the only Party whose Group is using such real property, the following conditions shall apply to the performance of any Response Action:

(i) the Performing Party shall take reasonable precautions to minimize any interference with or disruption of the operations of the property owners and/or any other parties that have operations at the site (including third-parties) (each such party that is a member of either Group, a “Non-Performing Impacted Party”), including obtaining the owner’s and/or the other operating parties’, as applicable, prior written Consent to any Response Action that would reasonably be expected to substantially interfere with or disrupt the operations of such Person at the affected real property, which Consent shall not be unreasonably withheld, conditioned or delayed;

(ii) if a member of a Group other than that of the Performing Party is the owner of the real property (or, if such real property is leased or sub-leased from a Person who is not a member of the ElectronicsCo Group or RemainCo Group, the primary tenant (or sub-tenant) of such real property as between the ElectronicsCo Group or RemainCo Group) or otherwise has operational control of the impacted property (a “Non-Performing Site Controller”), such Non-Performing Site Controller shall, and shall cause the other members of the Group to, provide reasonable access to, and reasonably cooperate with, the Performing Party in its performance of such Response Action, it being understood that such cooperation shall in no event in and of itself require any Non-Performing Impacted Party or Non-Performing Site Controller to incur any out-of-pocket expenses;

(iii) the Performing Party shall use reasonable efforts to avoid and minimize any harm to any persons or damage to real or personal property, and shall be responsible for any harm or damages resulting from the performance of any such Response Action, except to the extent such harm or damage results from the negligence or willful misconduct of such other Party or any member of its Group or any of their respective representatives; and

(iv) all required Response Actions shall be diligently and expeditiously performed in compliance with all applicable Laws, including Environmental Laws and worker health and safety Laws.

(v) The Performing Party shall (i) notify each Non-Performing Impacted Party and Non-Performing Site Controller prior to commencing or performing any Response Actions, (ii) keep each Non-Performing Impacted Party and Non-Performing Site Controller reasonably informed of the progress of any Response Actions and provide copies of any final, proposed response, remediation, investigation or sampling plans and the results of sampling and analysis (including any final status reports of work in progress or other final reports), in each case required to be submitted to any Governmental Entity or third party, (iii) provide each Non-Performing Impacted Party and Non-Performing Site Controller, at such Non-Performing Impacted Party and Non-Performing Site Controller's sole cost and expense, with a reasonable opportunity to review and comment on any material proposed response, remediation, investigation or sampling plans prior to submission to a Governmental Entity, (iv) provide each Non-Performing Impacted Party and Non-Performing Site Controller with the opportunity to attend, at such Non-Performing Impacted Party and Non-Performing Site Controller's sole cost and expense, any planned meeting with any Governmental Entity regarding a Response Action (provided that the Governmental Entity does not object), and (v) provide each Non-Performing Impacted Party and Non-Performing Site Controller an opportunity to observe, at such Non-Performing Impacted Party and Non-Performing Site Controller's sole cost and expense, any Response Action (other than Response Actions consisting of routine sampling, monitoring, maintenance or similar activities performed in the ordinary course) and to obtain, at such Non-Performing Impacted Party and Non-Performing Site Controller's sole cost and expense, splits of any samples obtained in the course of conducting any Response Action.

(d) Subject to Section 8.10(e), all Response Actions subject to this Section 8.10 shall meet the least stringent applicable standards, regulations, or requirements of applicable Law, including applicable Environmental Law, or, where an applicable Governmental Entity with or asserting jurisdiction is supervising such Response Action, required by such Governmental Entity, and be consistent with the use of the property as of the Effective Time and any applicable terms of the relevant lease or similar site-specific agreement as such terms are in effect as of the Effective Time (the "Appropriate Remediation Standard"). In furtherance of and to the extent consistent with the foregoing, each Party (on behalf of itself and the other members of their respective Groups) agrees to utilize institutional controls and engineering controls (including capping, signs, fences and deed restrictions on the use of real property, soils or groundwater) to satisfy the Appropriate Remediation Standard and to cooperate in obtaining all necessary approvals of the use of such controls; provided that such controls do not prevent or materially interfere with the continued operation or reasonable future expansion of the operations on such real property. Once a notice of no further action or equivalent determination with respect

to such matter has been issued by a Governmental Entity (or, if the Governmental Entity has delegated authority to conduct and certify the completion of a Response Action to a licensed professional, upon notice of the applicable Governmental Entity's receipt and acceptance of such licensed professional's certification), the Indemnifying Party shall have no further obligations with respect to such matter, other than with respect to any Indemnifiable Losses arising out of (i) any Third Party Claims relating to such matter and (ii) the performance of and any costs associated with any ongoing operations and maintenance, if any, required with respect to the Response Action, including inspections and repair of any engineering controls, ongoing pumping and treating of impacted groundwater (including any material equipment or system repairs, replacements or required upgrades), ongoing groundwater monitoring and related reporting, and the provision of any required financial assurance, provided that the Indemnitee shall be responsible for the performance of and any costs associated with any and all ongoing operations and maintenance relating to the following obligations: (A) any institutional controls, including any deed restrictions or land use controls and reporting obligations related to the same; (B) monitoring, maintenance, repair and reporting associated with a cap used as part of the remedy, but only to the extent that the cap consists of (x) the buildings at the site, (y) asphalt or similar materials already present at the site or that are used at the site for purposes in addition to the Response Action (*i.e.*, parking), or (z) landscaping; and (C) groundwater monitoring associated with a natural monitored attenuation remedy. The Indemnifying Party shall have the right to transfer to the Indemnitee (upon payment of the amount set forth in this sentence as mutually agreed in writing by the Indemnifying Party and Indemnitee or determined pursuant to the procedures set forth in Article X) its obligations for its ongoing operations and maintenance costs, if any, with respect to engineering controls approved as part of a no further action, equivalent determination or certification if the Indemnifying Party agrees to pay to the Indemnitee a sum equal to the present value of the reasonably estimated future costs of said engineering controls (where the period of time used for such present value calculation shall be the entire period for which it is reasonably anticipated that such continuing obligations will be performed, but no more than thirty (30) years, and the discount rate shall be reasonable). For the avoidance of doubt, if the Indemnifying Party and the Indemnitee cannot mutually agree in writing on the amount set forth in the preceding sentence, such disagreement shall be resolved in accordance with the procedures set forth in Article X of this Agreement. In the event that any Governmental Entity reopens or otherwise modifies any determination related to the notice of no further action or equivalent determination, or notice of receipt and acceptance of the licensed professional's certification, such that additional Response Actions are required, the Indemnifying Party shall indemnify the Indemnitee for any Liabilities associated with the reopening or modification of such determination that would have otherwise constituted Indemnifiable Losses of such Indemnitee.

(e) The Indemnifying Party shall not be responsible or liable to the Indemnitee for any Indemnifiable Losses associated with any Response Action to the extent:

- (i) incurred by or on behalf of the Indemnitee to achieve compliance with standards in excess of the Appropriate Remediation Standards;
- (ii) incurred for Response Actions not required under or to achieve compliance with applicable Laws or required by a Governmental Entity with or asserting jurisdiction, unless undertaken as a result of (x) a reasonable belief that there exists a condition that, if unabated, poses a risk of reasonable possibility of harm to human health and safety, or to property of any third party or (y) in response to a Third Party Claim; or

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(iii) resulting from the exacerbation after the Distribution of any Release or threat of Release of or exposure to Hazardous Substances which first occurred prior to the Distribution; provided that this clause (iii) shall in no way relieve the Indemnifying Party of any Liability for Indemnifiable Losses associated with a Response Action if the exacerbation of a Release that occurred on or prior to the Distribution arises as a result of any action or inaction on the part of the Indemnitee that does not rise to the level of negligence.

(f) Corrective Actions for Compliance-Related Liabilities Subject to Indemnity. If a Party is providing indemnification pursuant to this Agreement in connection with an ongoing business operation of the other Party, which (x) involves a violation of applicable Environmental Law which occurred prior to the Distribution, (y) requires a capital project (or series of capital projects) to bring the facility into compliance with applicable Environmental Law in effect as of the Distribution, and (z) does not involve a Response Action, the following shall apply:

(i) the Party that owns and operates the business operation after the Distribution will conduct and control the capital project (or series of capital projects), including the implementation thereof (the "Corrective Action Performing Party"); provided, however, that to the extent ElectronicsCo is the Corrective Action Performing Party and such capital project (or series of capital projects) relates to any Legacy Liability, ElectronicsCo shall conduct the capital project at the direction of RemainCo (subject to RemainCo's sole and exclusive authority and other rights over or related to such matters pursuant to Section 7.2);

(ii) all expenditures shall be commercially reasonable taking into account the obligation to bring the business operation into compliance with applicable Environmental Law in effect as of the Distribution ("Commercially Reasonable Expenditures"), and the Indemnifying Party shall not be liable for additional expenditures, if any, in excess of Commercially Reasonable Expenditures, including any such additional expenditures that are made for the purpose of providing an economic benefit to the Corrective Action Performing Party, including expanding the business operation;

(iii) the Indemnifying Party shall have no further obligation with respect to the matter subject to indemnification hereunder once the capital project (or series of capital projects) has been implemented and compliance has been achieved to the satisfaction of the relevant Governmental Entity; and

(iv) the Corrective Action Performing Party shall promptly provide the Indemnifying Party with: (A) copies of any proposed corrective action plan to be submitted to the relevant Governmental Entity, including the proposed cost of the corrective action; (B) a reasonable opportunity to review and suggest comments to the corrective action plan prior to submission to the relevant Governmental Entities; (C) the opportunity to attend, at the Indemnifying Party's sole cost and expense, any planned meeting with any Governmental Entity regarding the corrective action (provided that the Governmental Entity does not object); (D) material correspondence between the relevant Governmental Entities and the Corrective Action Performing Party relating to the corrective action; and (E) the final corrective action plan approved by or agreed to with the relevant Governmental Entities and the budget for implementation of said plan.

Section 8.11 Closure of Discontinued Operations.

(a) Notwithstanding anything in this Agreement to the contrary and except with respect to indemnification for (x) Environmental Liabilities, (y) Third Party Claims or (z) Indemnifiable Losses to the extent related to, resulting from or arising out of the Demolition Party's failure to perform its obligations pursuant to this Section 8.11 or its negligent or willful misconduct in performing such obligations, the following obligations set forth in this Section 8.11 shall be the exclusive obligations pursuant to this Agreement of the Parties for any Liabilities to the extent arising from required actions to execute demolition and removal of any buildings, improvements, facilities, equipment or other fixtures that (i) are Discontinued and/or Divested Operations and Businesses which give rise to Discontinued and/or Divested Operations and Business Liabilities and (ii) are located at a property owned by or within the leasehold interest of RemainCo, ElectronicsCo or a member of their respective Groups as of the Distribution Date (such buildings, improvements, facilities, equipment or other fixtures, the "Discontinued Buildings and Related Improvements"). For purposes of this section, the term "Demolition Party," shall mean the Party on whose property or leasehold the Discontinued Buildings and Related Improvements are located, including, where relevant, the other members of such Party's Group.

(b) The Demolition Party shall undertake, at the direction of RemainCo (subject to RemainCo's sole and exclusive authority and other rights over or related to such matters pursuant to Section 7.2), the demolition and removal of the Discontinued Buildings and Related Improvements if: (i) required by applicable Law, including an applicable permit issued by a Governmental Entity; (ii) demolition or removal is ordered by a Governmental Entity; (iii) the Discontinued Buildings and Related Improvements constitute a nuisance that unreasonably and significantly harms or threatens to unreasonably and significantly harm the health and safety of other persons at the Demolition Party's properties or members of the public; (iv) there is a Release or threatened Release of Hazardous Substances occurring at or related to any Discontinued Building or Related Improvements or (v) the Discontinued Buildings and Related Improvements unreasonably interfere with the current, or would unreasonably interfere with the planned operations (such operations being determined as of the Distribution, after giving effect to the Ancillary Agreements) by the Demolition Party or any other lessee at the property.

(c) If demolition and removal is required pursuant to Section 8.11(b), the Demolition Party shall undertake the demolition and removal of the Discontinued Buildings and Related Improvements in accordance with all applicable Laws, applicable site-specific safety requirements, without disturbing any equipment or other structures that are needed for an ongoing Response Action, and the Demolition Party's decommissioning plan, subject to RemainCo's written approval of such plan.

(d) The Demolition Party shall take reasonable precautions to minimize any interference with or disruption of the operations of the property owners and/or any other parties that have operations at the site (including third parties). The Demolition Party shall restore its premises to a level grade; provided, however, that the Demolition Party shall only be required to decommission, remove or demolish the Discontinued Buildings and Related Improvements down to, but not through, the subsurface.

(e) If the Demolition Party and RemainCo cannot mutually agree in writing whether the Demolition Party has completed its demolition and removal obligations pursuant to Section 8.11, such disagreement shall be resolved in accordance with the procedures set forth in Article X of this Agreement. If the disagreement is so resolved in favor of RemainCo, and the Demolition Party fails to complete such required work, RemainCo may undertake any such work, at the sole cost and expense of the Demolition Party to be paid by the Demolition Party upon demand, excluding any costs and expenses that relate to liabilities that have been otherwise allocated to RemainCo pursuant to the terms of this Agreement.

## ARTICLE IX

### **CONFIDENTIALITY; ACCESS TO INFORMATION**

#### Section 9.1 Preservation of Corporate Records.

(a) Except to the extent otherwise contemplated by any Ancillary Agreement, a Party providing (or causing to be provided) Records or access to Information to the other Party under this Article IX shall be entitled to receive from the recipient, upon the presentation of invoices therefor, payments for such amounts, relating to supplies, disbursements and other out-of-pocket expenses (which shall not include the costs of salaries and benefits of employees of such Party (or its Group or any of its or their respective then-Affiliates) or any pro rata portion of overhead or other costs of employing such employees which would have been incurred by such employees' employer regardless of the employees' service with respect to the foregoing), as are reasonably incurred in providing such Records or access to Information.

(b) Except as otherwise required or agreed to in writing, or as otherwise provided in any Ancillary Agreement, with regard to any Information referenced in Section 9.2, each Party shall, and shall cause the other members of its Group (and any of their successors and assigns) to, use commercially reasonable efforts, at such Party's sole cost and expense, to retain, until the latest of, as applicable, (i) ten (10) years after the Distribution (unless an earlier date is specified for such Information on Schedule 9.1(b)(ii)), (ii) the date on which such Information is no longer required to be retained pursuant to Schedule 9.1(b)(ii), (iii) the date on which such Information is no longer required to be retained pursuant to any "Litigation Hold" issued by either RemainCo or any of its Subsidiaries prior to the Distribution, including those set forth on Schedule 9.1(b)(iii), (iv) the concluding date of any period as may be required by any applicable Law, (v) with respect to any pending or threatened Action arising after the Distribution Date, to the extent that any member of the Group in possession of such Information has been notified in writing pursuant to a "Litigation Hold" by the other Party of such pending or threatened Action, the concluding date of any such "Litigation Hold", and (vi) the concluding date of any period during which the destruction of such Information would reasonably be



expected to interfere with a pending or threatened investigation by a Governmental Entity which is known to any member of the Group in possession of such Information at the time any retention obligation with regard to such Information would otherwise expire. The Parties agree that upon reasonable written request from the other Party that certain Information relating to the ElectronicsCo Business, the RemainCo Business, the ElectronicsCo Assets, the RemainCo Assets, the ElectronicsCo Liabilities, the RemainCo Liabilities or the transactions contemplated hereby be retained in connection with an Action, each Party shall, and shall cause the other members of its Group (and any of their respective then-Affiliates) to use reasonable efforts (at the requesting Party's sole cost and expense) to preserve and not to destroy or dispose of such Information without the consent (such consent not to be unreasonably withheld, conditioned or delayed) of the requesting Party (for the avoidance of doubt, reasonable efforts shall include issuing a "Litigation Hold").

(c) RemainCo and ElectronicsCo intend, and acknowledge that each member of its respective Group intends, that any Transfer of Information that would otherwise be within the attorney-client or attorney work product privileges shall not operate as a waiver of any potentially applicable Privilege.

Section 9.2 Provision of Corporate Records. Other than in circumstances in which indemnification is sought pursuant to Article VIII (in which event the provisions of such Article VIII will govern) or for matters related to the provision of Tax Records (in which event the Tax Matters Agreement will govern) or for matters related to the provision of Employee Records (in which event the Employee Matters Agreement will govern) or for matters related to the separation of Information (which shall be governed by Section 5.2), and without limiting the applicable provisions of Article VI and Article VII, and subject to appropriate restrictions for Privileged Information (as defined below) or Confidential Information:

(a) After the Distribution Date and until the date on which RemainCo was required to retain, or cause to be retained, the Information requested pursuant to this Section 9.2(a) in accordance with RemainCo's obligations under Section 9.1(b), and subject to compliance with the terms of the Ancillary Agreements, upon the prior written reasonable request by, and at the expense of, ElectronicsCo for specific and identified Information (i) which (x) constitutes an Asset of the ElectronicsCo Group and the Transfer of such Asset has not been consummated as of the Distribution Date, or (y) relates to the ElectronicsCo Group or the conduct of the ElectronicsCo Business, as the case may be, up to the Distribution Date, solely to the extent reasonably necessary for the Parties to complete the separation of Assets (including Records) as contemplated hereby (or for such other reasonable purposes as may be agreed by the Parties), RemainCo shall, and shall cause the other members of the RemainCo Group (and each of its and their respective then-Affiliates) to, provide, as soon as reasonably practicable following the receipt of such request, ElectronicsCo and its designated representatives reasonable access during normal business hours to the written or electronic documentary Information or appropriate copies of such Information (or the originals thereof if the Party making the request has a reasonable need for such originals) in the possession or control of any member of the RemainCo Group, but only to the extent such items (or copies thereof) so relate and are not already in the possession or control of the requesting Party (or any member of its Group); provided that, except in the case of clause (x) of this Section 9.2(a)(i), to the extent any originals are delivered to ElectronicsCo pursuant to this Agreement or the Ancillary Agreements,

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ElectronicsCo shall, and shall cause the other members of its Group (and each of its and their respective then-Affiliates) to, at its own expense, return such Information to RemainCo within a reasonable time after the need to retain such originals has ceased; provided, further, that, in the event that RemainCo, in its sole discretion, determines that any such access or the provision of any such Information would reasonably be expected to be significantly commercially detrimental to RemainCo or any member of the RemainCo Group or would violate any Law or Contract with a third party or would reasonably result in the waiver of any Privilege (unless the Privilege with respect to any such Privileged Information is solely related (other than in any de minimis respect) to Sole Benefit Services of the requesting Party), RemainCo shall not be obligated to, and shall not be obligated to cause the other members of the RemainCo Group (and each of its and their respective then-Affiliates) to, provide such Information requested by ElectronicsCo; provided, however, in the event access or the provision of any such Information would reasonably be expected to be significantly commercially detrimental or violate a Contract with a third party, RemainCo shall, and shall cause the other members of the RemainCo Group (and any of its or their then-Affiliates) to, use commercially reasonable efforts to seek to mitigate any such harm or consequence of, or to obtain the Consent of such third party to, the disclosure of such Information, or (ii) that (x) is required by any member of the ElectronicsCo Group with regard to reasonable compliance with reporting, disclosure, filing or other requirements imposed on such Person (including under applicable securities Laws) by a Governmental Entity having jurisdiction over such Person or (y) is for use in any other judicial, regulatory, administrative or other proceeding or in order to satisfy audit, accounting, claims, regulatory, litigation, Action or other similar requirements, as applicable, RemainCo shall, and shall cause the other members of the RemainCo Group (and each of its and their respective then-Affiliates) to, provide, as soon as reasonably practicable following the receipt of such request, ElectronicsCo and its designated representatives reasonable access during normal business hours to the Information or appropriate copies of such written or electronic documentary Information (or the originals thereof if the applicable member of the ElectronicsCo Group has a reasonable need for such originals) in the possession or control of RemainCo or any other member of the RemainCo Group (or any of its or their respective then-Affiliates), but only to the extent such items so relate and are not already in the possession or control of ElectronicsCo (or another member of its Group, or any of their respective then-Affiliates); provided that, to the extent any originals are delivered to ElectronicsCo pursuant to this Agreement or the Ancillary Agreements, ElectronicsCo shall, at its own expense, return such Information to RemainCo within a reasonable time after the need to retain such originals has ceased; provided, further that, in the event that RemainCo, in its sole discretion, determines that any such access or the provision of any such Information (including Information requested under Section 5.1) would violate any Law or Contract with a third party or would reasonably be expected to result in the waiver of any attorney-client privilege, the work product doctrine or other applicable Privilege (unless the application of such privilege, doctrine or Privilege with respect to such matter is solely related (other than in any de minimis respect) to the Assets, Business and/or Liabilities of the requesting Party), RemainCo shall not be obligated to provide such Information requested by ElectronicsCo, provided, further, that in the event access or the provision of any such Information would violate a Contract with a third party, RemainCo shall, and shall cause the other members of the RemainCo Group (and any of its or their respective then-Affiliates) to, use commercially reasonable efforts to seek to obtain the Consent of such third party to the disclosure of such Information.

(b) After the Distribution Date and until the date on which ElectronicsCo was required to retain, or cause to be retained, the Information requested pursuant to this Section 9.2(b) in accordance with ElectronicsCo's obligations under Section 9.1(b), and subject to compliance with the terms of the Ancillary Agreements, upon the prior written reasonable request by, and at the expense of, RemainCo for specific and identified Information (i) which (x) constitutes an Asset of the RemainCo Group and the Transfer of such Asset has not been consummated as of the Distribution Date or (y) relates to the RemainCo Group or the conduct of the RemainCo Business, as the case may be, up to the Distribution Date solely to the extent reasonably necessary for the Parties to complete the separation of Assets (including Records) as contemplated hereby (or for such other reasonable purposes as may be agreed by the Parties), ElectronicsCo shall, and shall cause the other members of the ElectronicsCo Group (and each of its and their respective then-Affiliates) to, provide, as soon as reasonably practicable following the receipt of such request, RemainCo and its designated representatives reasonable access during normal business hours to the written or electronic documentary Information or appropriate copies of such Information (or the originals thereof if the Party making the request has a reasonable need for such originals) in the possession or control of any member of the ElectronicsCo Group, but only to the extent such items (or copies thereof) so relate and are not already in the possession or control of the requesting Party (or any member of its Group); provided that, except in the case of clause (x) of this Section 9.2(b)(i), to the extent any originals are delivered to RemainCo pursuant to this Agreement or the Ancillary Agreements, RemainCo shall, and shall cause the other members of its Group (and each of its and their respective then-Affiliates) to, at its own expense, return such Information to ElectronicsCo within a reasonable time after the need to retain such originals has ceased; provided, further, that, in the event that ElectronicsCo, in its sole discretion, determines that any such access or the provision of any such Information would reasonably be expected to be significantly commercially detrimental to ElectronicsCo or any member of the ElectronicsCo Group or would violate any Law or Contract with a third party or would reasonably result in the waiver of any Privilege (unless the Privilege with respect to any such Privileged Information is solely related (other than in any de minimis respect) to Sole Benefit Services of the requesting Party), ElectronicsCo shall not be obligated to, and shall not be obligated to cause the other members of the ElectronicsCo Group (and each of its and their respective then-Affiliates) to, provide such Information requested by RemainCo, provided, however, in the event access or the provision of any such Information would reasonably be expected to be significantly commercially detrimental or violate a Contract with a third party, ElectronicsCo shall, and shall cause the other members of the ElectronicsCo Group (and any of its or their then-Affiliates) to, use commercially reasonable efforts to seek to mitigate any such harm or consequence of, or to obtain the Consent of such third party to, the disclosure of such Information or (ii) that (x) is required by any member of the RemainCo Group with regard to reasonable compliance with reporting, disclosure, filing or other requirements imposed on such Person (including under applicable securities Laws) by a Governmental Entity having jurisdiction over such Person or (y) is for use in any other judicial, regulatory, administrative or other proceeding or in order to satisfy audit, accounting, claims, regulatory, litigation, Action or other similar requirements, as applicable, ElectronicsCo shall, and shall cause the other members of the ElectronicsCo Group (and each of its and their respective then-Affiliates) to, provide, as soon as reasonably practicable following the receipt of such request, RemainCo and its designated representatives reasonable access during normal business hours to the Information or appropriate copies of such written or electronic documentary Information (or the originals

thereof if the applicable member of the RemainCo Group has a reasonable need for such originals) in the possession or control of ElectronicsCo or any other member of the ElectronicsCo Group (or any of its or their respective then-Affiliates), but only to the extent such items so relate and are not already in the possession or control of RemainCo (or another member of its Group, or any of their respective then-Affiliates); provided that, to the extent any originals are delivered to RemainCo pursuant to this Agreement or the Ancillary Agreements, RemainCo shall, at its own expense, return such Information to ElectronicsCo within a reasonable time after the need to retain such originals has ceased; provided, further that, in the event that ElectronicsCo, in its sole discretion, determines that any such access or the provision of any such Information (including Information requested under Section 5.1) would violate any Law or Contract with a third party or would reasonably be expected to result in the waiver of any attorney-client privilege, the work product doctrine or other applicable Privilege (unless the application of such privilege, doctrine or Privilege with respect to such matter is solely related (other than in any de minimis respect) to the Assets, Business and/or Liabilities of the requesting Party), ElectronicsCo shall not be obligated to provide such Information requested by RemainCo, provided, further, that in the event access or the provision of any such Information would violate a Contract with a third party, ElectronicsCo shall, and shall cause the other members of the ElectronicsCo Group (and any of its or their respective then-Affiliates) to, use commercially reasonable efforts to seek to obtain the Consent of such third party to the disclosure of such Information.

(c) Any Information provided by or on behalf of or made available by or on behalf of any Party (or any other member of either Group) pursuant to this Article IX shall be on an “as is”, “where is” basis and no Party (or any member of either Group) is making any representation or warranty with respect to such Information or the completeness thereof.

(d) Each of RemainCo and ElectronicsCo shall, and shall cause each other member of its Group to, inform its and their respective officers, employees, agents, consultants, advisors, authorized accountants, counsel and other designated representatives who have or have access to the Confidential Information or other Information of any member of any other Group provided pursuant to Section 5.1 or this Article IX of their obligation to hold such Information confidential in accordance with the provisions of this Agreement.

#### Section 9.3 Disposition of Information.

(a) Each Party, on behalf of itself and each other member of its Group, acknowledges that Information in its or in a member of its Group’s possession, custody or control as of the Distribution may include Information owned by the other Party or a member of such other Party’s Group and not related to (i) it or its Business or (ii) any Ancillary Agreement to which it or any member of its Group is a Party.

(b) Notwithstanding such possession, custody or control, such Information shall remain the property of such other Party or member of such other Party’s Group. Each Party agrees, on behalf of itself and each other member of its Group, subject to legal holds and other legal requirements and obligations, (i) that any such Information is to be treated as Confidential Information of the Party or Parties to which it relates and (ii) subject to Section 9.1, to use commercially reasonable efforts to within a reasonable time (A) purge such

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Information from its databases, files and other systems and not retain any copy of such Information (including, if applicable, by transferring such Information to the Party to which such Information belongs) or (B) if such purging is not practicable, to encrypt or otherwise make unreadable or inaccessible such Information; provided that each Party shall, and shall cause each other member of its Group to, provide reasonable advance notice to the other Party prior to taking any action described in this Section 9.3(b) with respect to any Information related to the matters set forth on Schedule 9.3.

Section 9.4 Witness Services. At all times from and after the Distribution Date, each of RemainCo and ElectronicsCo shall use its commercially reasonable efforts to make available to the others, upon reasonable written request, its and any member of its Group's officers, directors, employees and agents (taking into account the business demands of such individuals) as witnesses (in the presence of counsel for such officer, director, employee or agent, if any, and, if requested by the providing Group, counsel or other representatives designated by the providing Group) to the extent that (a) such Persons may reasonably be required to testify, or the testimony of such Persons would reasonably be expected to be beneficial to the requesting Party (or any member of its Group), in connection with the prosecution or defense of any Action in which the requesting Party may from time to time be involved and (b) there is no conflict in the Action between the requesting Party (or any member of its Group) and the requested Party (or any member of its Group). A Party providing, or causing to be provided, a witness to the other Party (or member of such other Party's Group) under this Section 9.4 shall be entitled to receive from the recipient of such services, upon the presentation of invoices therefor, payments for all reasonable out-of-pocket costs and expenses incurred by such Party or a member of its Group in connection therewith (which shall not include the costs of salaries and benefits of employees who are witnesses or any pro rata portion of overhead or other costs of employing such employees which would have been incurred by such employees' employer regardless of the employees' service as witnesses), as may be properly paid under applicable Law.

Section 9.5 Reimbursement; Other Matters. Except to the extent otherwise contemplated by this Agreement (including Section 7.3) or any Ancillary Agreement, a Party (or a member of such Party's Group) providing, or causing to be provided, Information or access to Information to the other Party (or a member of such other Party's Group) under this Article IX shall be entitled to receive from the recipient, upon the presentation of invoices therefor, payments for such amounts, relating to supplies, disbursements and other out-of-pocket expenses (which shall not include the costs of salaries and benefits of employees of such Party or any other member of its Group or any pro rata portion of overhead or other costs of employing such employees which would have been incurred by such employees' employer regardless of the employees' service with respect to the foregoing), as may be reasonably incurred in providing such Information or access to such Information.

Section 9.6 Confidentiality; Non-Use.

(a) Notwithstanding any termination of this Agreement and except as otherwise provided in the Umbrella Secrecy Agreement, each Party shall, and shall cause each of the other members of its Group to, hold, and cause each of their respective officers, employees, agents, consultants and advisors to hold, in strict confidence, and not to disclose or release or except as otherwise permitted by this Agreement or as otherwise provided in the Umbrella

Secrecy Agreement, use, including for any ongoing or future commercial purpose, without the prior written consent of each Party to whom (or to whose Group) the Confidential Information relates (which may be withheld in each such Party's sole and absolute discretion), any and all Confidential Information concerning or belonging to the other Party or any member of its Group; provided that each Party may disclose, or may permit disclosure of, such Confidential Information (i) to its (or any member of its Group's) respective auditors, attorneys and other appropriate consultants and advisors who have a need to know such Confidential Information for auditing and other non-commercial purposes and are informed of the confidentiality and non-use obligations to the same extent as is applicable to the Parties and in respect of whose failure to comply with such obligations, the applicable Party will be responsible, (ii) if any Party or any member of its Group is required or compelled to disclose any such Confidential Information by judicial or administrative process or by other requirements of Law or stock exchange rule, (iii) to the extent required in connection with any Action by one Party (or a member of its Group) against the other Party (or member of such other Party's Group) or in respect of claims by one Party (or member of its Group) against the other Party (or member of such other Party's Group) brought in an Action, (iv) to the extent necessary in order to permit a Party (or member of its Group) to prepare and disclose its financial statements in connection with any regulatory filings or Tax Returns, (v) to the extent necessary for a Party (or member of its Group) to enforce its rights or perform its obligations under this Agreement and except as otherwise provided in the Umbrella Secrecy Agreement with respect to the Ancillary Agreements, (vi) to Governmental Entities in accordance with applicable procurement regulations and contract requirements or (vii) to other Persons in connection with their evaluation of, and negotiating and consummating, a potential strategic transaction, to the extent reasonably necessary in connection therewith, provided an appropriate and customary confidentiality agreement has been entered into with the Person receiving such Confidential Information. Notwithstanding the foregoing, in the event that any demand or request for disclosure of Confidential Information is made by a third party that relates to clause (ii), (iii), (v) or (vi) above, each Party, as applicable, shall promptly notify (to the extent permissible by Law) the Party to whom (or to whose Group) the Confidential Information relates of the existence of such request, demand or disclosure requirement and shall provide such Party (and/or any applicable member of its Group) a reasonable opportunity to seek an appropriate protective order or other remedy, which such Parties shall, and shall cause the other members of their respective Group to, cooperate in obtaining to the extent reasonably practicable. In the event that such appropriate protective order or other remedy is not obtained, the Party who is (or whose Group's member is) required to make such disclosure shall or shall cause the applicable member of its Group to furnish (at the expense of the Party seeking to limit such request, demand or disclosure requirement), or cause to be furnished, only that portion of the Confidential Information that is legally required to be disclosed and shall take commercially reasonable steps to ensure that confidential treatment is accorded to such Confidential Information (at the expense of the Party seeking (or whose Group's member is seeking) to limit such request, demand or disclosure requirement).

(b) Notwithstanding anything to the contrary set forth herein, (i) a Party shall be deemed to have satisfied its obligations hereunder with respect to Confidential Information if it exercises, and causes the other members of its Group to exercise, at least the same degree of care (but no less than a commercially reasonable degree of care) as such Party takes to preserve confidentiality for its own similar Information and (ii) confidentiality obligations provided for in any agreement between each Party or another member of its Group

and its or their respective past and/or present employees as of the Distribution Date shall remain in full force and effect. Notwithstanding anything to the contrary set forth herein, Confidential Information (other than Intellectual Property (which shall exclusively be governed by the IP Cross-License Agreement, the House Marks License Agreement and other applicable Ancillary Agreements), Registration Data (which shall exclusively be governed by the Regulatory Matters Agreement) and Personal Data (which shall exclusively be governed by Section 9.10 and other applicable Ancillary Agreements)) of any Party (or another member of its Group) rightfully in the possession of and used by the other Party (or another member of its Group) in the operation of its Business as of the Distribution Date may continue to be used by such Party (and/or the applicable members of its Group) in possession of such Confidential Information in and only in the operation of the ElectronicsCo Business or the RemainCo Business, as the case may be; provided that, except as otherwise provided in the Umbrella Secrecy Agreement, such Confidential Information may only be used by such Party and/or the applicable members of its Group and its and their respective officers, employees, agents, consultants and advisors in the specific manner and for the specific purposes for which it is used as of the date of this Agreement and may only be shared with additional officers, employees, agents, consultants and advisors of such Party (or Group member) on a need-to-know basis exclusively with regard to such specified use; provided, further, that such use is not competitive in nature, and may be used only so long as the Confidential Information is maintained in confidence and not disclosed in violation of Section 9.6(a), except that such Confidential Information may be disclosed to third parties other than those listed in Section 9.6(a), provided that such disclosure to such other third parties and any associated use of such Information must be pursuant to a written agreement containing confidentiality obligations at least as protective of the Parties' rights to such Confidential Information as those contained in this Agreement. Such continued right to use may not be transferred (directly or indirectly) to any third party without the prior written consent (not to be unreasonably withheld, conditioned or delayed) of the applicable Party, except pursuant to Section 12.9.

(c) Each of RemainCo and ElectronicsCo acknowledges, on behalf of itself and each other member of its Group, that it and the other members of its Group may have in their possession confidential or proprietary Information of third parties that was received under confidentiality or non-disclosure agreements with each such third party while such Party and/or members of its Group were Subsidiaries of RemainCo. Each of RemainCo and ElectronicsCo shall, and shall cause the other members of its Group to, hold and cause its and their respective representatives, officers, employees, agents, consultants and advisors (or potential buyers) to hold, in strict confidence the confidential and proprietary Information of third parties to which they or any other member of their respective Groups has access, in accordance with the terms of any agreements entered into prior to the Distribution between one or more members of the RemainCo Group and/or ElectronicsCo Group (whether acting through, on behalf of, or in connection with, the separated Businesses) and such third parties.

(d) For the avoidance of doubt and notwithstanding any other provision of this Section 9.6, (i) the disclosure and sharing of Privileged Information shall be governed solely by Section 9.7, and (ii) to the extent that an Ancillary Agreement is governed by the Umbrella Secrecy Agreement or another Contract pursuant to which a Party or its Affiliate is bound that specifically provides that certain information covered under this Section 9.6 shall be held confidential on a basis that is more protective of such information or for a longer period of time than provided for in this Section 9.6, then the applicable provisions contained in such Ancillary Agreement or other Contract shall control with respect thereto.

(a) Pre-Separation Services. The Parties recognize that legal and other professional services that have been and will be provided prior to the Distribution have been and will be rendered either for (i) the collective benefit of each of the members of the RemainCo Group and the ElectronicsCo Group ("Collective Benefit Services"), or (ii) the sole benefit of (x) RemainCo (or a member of RemainCo's Group) in the case of legal and other professional services provided solely in respect of a RemainCo Asset, a RemainCo Liability or the RemainCo Business, or (y) ElectronicsCo (or a member of ElectronicsCo's Group) in the case of legal and other professional services provided solely in respect of an ElectronicsCo Asset, an ElectronicsCo Liability or the ElectronicsCo Business, as the case may be ("Sole Benefit Services"). Subject to Article VII, for the purposes of asserting all privileges, immunities or other protections from disclosure which may be asserted under applicable Law, including attorney-client privilege, business strategy privilege, joint defense privilege, common interest privilege, and protection under the work-product doctrine ("Privilege"), (x) each of the members of the RemainCo Group and the ElectronicsCo Group shall be deemed to be the client with respect to Collective Benefit Services, and (y) RemainCo or ElectronicsCo (or the applicable member of such Party's Group), as the case may be, shall be deemed to be the client with respect to Sole Benefit Services. With respect to all Information subject to Privilege ("Privileged Information"), (A) the Parties shall have a shared Privilege for Privileged Information to the extent relating to Collective Benefit Services, and (B) RemainCo or ElectronicsCo (or the applicable member of such Party's Group), as the case may be, shall have Privilege for Privileged Information to the extent relating to Sole Benefit Services and shall control the assertion or waiver of such Privilege. For the avoidance of doubt, Privileged Information includes, but is not limited to, services rendered by legal counsel retained or employed by any Party (or any member of such Party's respective Group), including outside counsel and in-house counsel.

(b) Post-Separation Services. Each Party, on behalf of itself and each other member of its Group, acknowledges that legal and other professional services will be provided following the Distribution which will be rendered solely for the benefit of RemainCo (or a member of its Group) or ElectronicsCo (or a member of its Group), as the case may be, while other such post-separation services following the Distribution may be rendered with respect to claims, proceedings, litigation, disputes, or other matters which involve members of both Groups. With respect to such post-separation services and related Privileged Information, each of the Parties, on behalf of itself and each other member of its Group, agrees as follows, subject to Article VII:

(i) RemainCo shall be entitled, in perpetuity, to control the assertion or waiver of all Privileges in connection with Privileged Information which relates solely to the RemainCo Business, whether or not the Privileged Information is in the possession of or under the control of any member of the RemainCo Group or ElectronicsCo Group. RemainCo shall also be entitled, in perpetuity, to control the assertion or waiver of all Privileges in connection with Privileged Information that relates solely to the subject matter of any claims constituting RemainCo Liabilities, now pending or which may be asserted in the future, in any lawsuits or other proceedings initiated against or by any member of the RemainCo Group, whether or not the Privileged Information is in the possession of or under the control of any member of the RemainCo Group or ElectronicsCo Group; and



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(ii) ElectronicsCo shall be entitled, in perpetuity, to control the assertion or waiver of all Privileges in connection with Privileged Information which relates solely to the ElectronicsCo Business, whether or not the Privileged Information is in the possession of or under the control of any member of the RemainCo Group or ElectronicsCo Group. ElectronicsCo shall also be entitled, in perpetuity, to control the assertion or waiver of all Privileges in connection with Privileged Information that relates solely to the subject matter of any claims constituting ElectronicsCo Liabilities, now pending or which may be asserted in the future, in any lawsuits or other proceedings initiated against or by any member of the ElectronicsCo Group, whether or not the Privileged Information is in the possession of or under the control of any member of the RemainCo Group or ElectronicsCo Group.

(c) Each Party, on behalf of itself and each other member of its Group, agrees as follows in this Section 9.7(c) regarding all Privileges not allocated pursuant to the terms of Section 9.7(b) with respect to which the Parties shall have a shared Privilege. All Privileges relating to any claims, proceedings, litigation, disputes or other matters which involve a member of both of the Groups in respect of which members of both of the Groups retain any responsibility or Liability under this Agreement, shall be subject to a shared Privilege among them.

(i) Subject to Article VII, Sections 9.7(c)(ii), 9.7(c)(iv) and 9.7(c)(v), no Party (or any member of its Group) may waive, nor allege or purport to waive, any Privilege which could be asserted under any applicable Law, and in which the other Party (or member of its Group) has a shared Privilege, without the consent of such other Party, which shall not be unreasonably withheld, conditioned or delayed. Any Party (or member of its Group) requesting the consent of the other Party (or member of its Group) to waive a shared Privilege shall make such request in writing (a "Privilege Waiver Request"). Consent shall be in writing, or shall be deemed to be granted unless written objection (a "Privilege Waiver Objection Notice") is made within twenty (20) days after receipt of a Privilege Waiver Request.

(ii) In the event of any Action or Dispute solely between or among any of the Parties, or any members of their respective Groups, either such Party may waive a Privilege in which the other Party or member of such Party's Group has a shared Privilege, without obtaining the consent of such other Party (or Parties), as applicable; provided that such waiver of a shared Privilege shall be effective only as to the use of Information with respect to the Action or Dispute between or among the relevant Parties and/or the applicable members of their respective Groups, and shall not operate as a waiver of the shared Privilege with respect to third parties.

(iii) In the event of any Action or Dispute involving a third party, if a Dispute arises between or among the Parties (or members of their respective Groups) regarding whether a Privilege should be waived to protect or advance the interest of any Party or its Group, each Party agrees that it shall, and shall cause each other member of its Group to, negotiate in good faith, endeavor to minimize any prejudice to the rights of the other Party (or members of their respective Group), and shall not, and shall cause each other member of its Group not to, unreasonably withhold consent to any request for waiver by the other Party. Each Party specifically agrees that it shall not, and shall cause each other member of its Group to not, withhold consent to waiver for any purpose except to protect its (or its Group's) own legitimate interests.

(iv) Upon delivery of a Privilege Waiver Objection Notice, such Dispute shall be referred to the general counsels of the relevant Parties, and/or such other executive officer designated in writing by a relevant Party, for negotiations for a period of fifteen (15) days (the "Privilege Waiver Negotiation Period"). All offers, promises, conduct and statements, whether oral or written, made in the course of the discussions and negotiations related to the Privilege Waiver Negotiation Period by any of the Parties (or the other members of their respective Groups), their respective agents, employees, experts and attorneys are confidential, privileged and inadmissible for any purpose, including impeachment, in any arbitration or other proceeding involving the Parties (or any other member of their respective Groups) and, in any Action, shall not be admissible in any future Action between the Parties, any member of their respective Groups and/or any Indemnitee; provided that evidence that is otherwise admissible or discoverable shall not be rendered inadmissible or non-discoverable as a result of its use in the negotiation or discussion.

(v) If such Dispute has not been resolved in writing for any reason within the Privilege Waiver Negotiation Period, and the requesting Party determines that a Privilege should nonetheless be waived to protect or advance its interest, the requesting Party shall provide the objecting Party written notice (a "Privilege Waiver Notice") fifteen (15) days prior to effecting such waiver. The objecting Party shall be entitled to submit such Dispute to final and binding arbitration pursuant to the procedures set forth in Section 10.1(c) of this Agreement within fifteen (15) days of receipt of a Privilege Waiver Notice. Each Party specifically agrees that failure by the objecting Party within fifteen (15) days of receipt of a Privilege Waiver Notice to commence proceedings in accordance with Section 10.1(c) to enjoin such Privilege waiver under applicable Law shall be deemed full and effective consent to such Privilege waiver, and each Party agrees that if the objecting Party commences such proceedings within fifteen (15) days of receipt of a Privilege Waiver Notice, any such Privilege shall not be waived by any Party (or any member of their respective Groups) until the final determination of such Dispute in accordance with Section 10.1(c).

(vi) Upon receipt by any Party or any other member of its Group of any subpoena, discovery or other request which, upon a good faith reading, would reasonably be construed as calling for the production or disclosure of Information subject to a shared Privilege or as to which the other Party has the sole right hereunder to assert a Privilege, or if any Party (or other member of its Group) obtains knowledge that any of its or member of its Group's current or former directors, officers, agents or employees have received any subpoena, discovery or other requests which arguably, upon

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a good faith reading, would reasonably be construed as calling for the production or disclosure of such Privileged Information, such Party shall promptly notify the other Party of the existence of the request and shall provide the other Party (and the relevant members of its or their respective Group) a reasonable opportunity to review the Information and to assert any rights it or they may have under this Section 9.7 or otherwise to prevent, restrict or otherwise limit the production or disclosure of such Privileged Information.

(d) Notwithstanding the foregoing in this Section 9.7, the Parties acknowledge and agree that in any Action or Dispute with respect to this Agreement, the Ancillary Agreements, any other agreement related to the transactions contemplated hereby or thereby and/or the negotiations, structuring and transactions contemplated hereby and thereby, in each case, in which RemainCo, on the one hand, is adverse to ElectronicsCo, on the other hand: (i) any and all Privileged Information with respect to such matters belonging to or possessed by the RemainCo Group or the ElectronicsCo Group prior to the Distribution shall be deemed to relate solely to the RemainCo Business; (ii) any advice given by or communications with each of the parties constituting RemainCo Counsel, to the extent it relates to this Agreement, the Ancillary Agreements or any other agreement related to the transactions contemplated hereby or thereby, and/or the negotiations, structuring and transactions contemplated hereby or thereby, shall not be a shared privilege and shall be deemed to relate solely to the RemainCo Business; and (iii) any advice given or communications with in-house counsel of RemainCo prior to the Distribution, to the extent it relates to this Agreement, the Ancillary Agreements, or any other agreement related to the transactions contemplated hereby or thereby, and/or the negotiations, structuring and transactions contemplated hereby or thereby, shall not be a shared privilege and shall be deemed to relate solely to the RemainCo Business. In all other cases, Privileged Information with respect to clauses (i), (ii) and (iii) above shall be a shared privilege.

(e) The transfer of all Information pursuant to this Agreement is made in reliance on the agreement of RemainCo and ElectronicsCo as set forth in Sections 9.6 and 9.7, to maintain and cause to be maintained the confidentiality of Privileged Information and to assert and maintain, and cause to be asserted and maintained, all applicable Privileges, including, but not limited to, attorney-client or attorney work product privileges. The access to Information being granted pursuant to Sections 5.1, 7.3, 8.4 and 9.2 hereof, the agreement to provide witnesses and individuals pursuant to Sections 5.1, 7.3, 8.4 and 9.4 hereof, the furnishing of notices and documents and other cooperative efforts contemplated by Sections 5.1, 7.4 and 8.4 hereof, and the transfer of Privileged Information between and among the Parties and the members of their respective Groups pursuant to this Agreement shall not be deemed a waiver of any Privilege that has been or may be asserted under this Agreement or otherwise.

(f) Any assertion of privilege by ElectronicsCo or any other members of its Group shall not derogate from any rights of RemainCo set forth in Article VII.

Section 9.8 Conflicts Waiver. Each Party hereby agrees, on behalf of itself and each of its past, present and future Affiliates, that the counsel(s) set forth on Schedule 9.8 ("RemainCo Counsel") has exclusively acted as counsel to RemainCo in connection with the preparation, execution and delivery of this Agreement and the Ancillary Agreements and the consummation of the transactions contemplated hereby and thereby. ElectronicsCo, on behalf of

itself and each of its past, present and future Affiliates, agrees that, following consummation of the transactions contemplated hereby and thereby, such representation by RemainCo Counsel shall not preclude RemainCo Counsel from serving as counsel to RemainCo, any of its then-Affiliates or any directors, officers, employees, agents, representatives, limited partners, members, shareholders or other equityholders of RemainCo or such then-Affiliate, in connection with any Action arising out of or relating to this Agreement, the Ancillary Agreements or the transactions contemplated hereby or thereby (even if there exists at any time a separate attorney-client relationship between RemainCo Counsel, on the one hand, and ElectronicsCo or any of its past, present or future Affiliates, on the other hand, pursuant to which RemainCo Counsel has obtained confidential information relating to ElectronicsCo, the ElectronicsCo Business, the ElectronicsCo Assets or the ElectronicsCo Liabilities). ElectronicsCo shall not, and shall cause any and all of its past, present and future Affiliates not to, seek to have RemainCo Counsel disqualified from any such representation. ElectronicsCo, on behalf of itself and each of its past, present and future Affiliates, hereby consents thereto and waives any such conflict of interest, and ElectronicsCo shall cause any and all of its past, present and future Affiliates to consent to such waive any conflict of interest. ElectronicsCo, on behalf of itself and each of its past, present and future Affiliates, acknowledges that such consent and waiver is voluntary, that it has been carefully considered, and that ElectronicsCo, on behalf of itself and each of its past, present and future Affiliates, has consulted with counsel or has been advised it should do so in connection herewith. ElectronicsCo, on behalf of itself and each of its past, present and future Affiliates, further acknowledges that none of this Agreement (including, but not limited to Article VII), the Ancillary Agreements nor the transactions contemplated hereby and thereby are intended to create an attorney-client relationship between RemainCo Counsel, on the one hand, and ElectronicsCo or any of its past, present or future Affiliates, on the other hand, or any other relationship pursuant to which ElectronicsCo or any of its past, present or future Affiliates would have a right to object to RemainCo Counsel's representation of any Person under any circumstance. The covenants, consent, and waiver contained in this Section 9.8 shall not be deemed exclusive of any other rights to which RemainCo Counsel is entitled whether pursuant to Law, Contract, or otherwise.

Section 9.9 Ownership of Information. Any Information owned by one Party or any member of its Group that is provided to a requesting Party pursuant to this Article IX shall be deemed to remain the property of the providing Party (or member of its Group). Unless expressly and specifically set forth herein, nothing contained in this Agreement shall be construed as granting or conferring rights to any Party (or member of its Group) of license or otherwise in any such Information, whether by implication, estoppel or otherwise.

Section 9.10 Personal Data.

(a) Each Party and its Affiliates shall at all times comply, and ensure that their Processing of Personal Data hereunder and under any Ancillary Agreement complies, with Data Protection Laws (including by taking appropriate technical and organizational measures against the unauthorized disclosure or unlawful processing, access to, accidental loss or destruction of, or damage to, Personal Data) and shall use reasonable efforts to avoid acts or omissions that place the other Party in breach of its obligations under any applicable Data Protection Laws.

(b) The Parties acknowledge that after the Distribution, each Party and its Affiliates shall act as a separate and independent Controller with respect to the Processing of any Personal Data pursuant to this Agreement or any Ancillary Agreement (subject to the express terms thereof).

(c) To the extent that a Party or its Affiliate transfers Personal Data included in the RemainCo Assets (with respect to transfers by ElectronicsCo or its Affiliates) or ElectronicsCo Assets (with respect to transfers by RemainCo or its Affiliates) internationally following the Distribution, the transferring Party shall ensure that such transfer is effected by way of a valid data transfer mechanism in compliance with applicable Data Protection Laws, if and to the extent applicable.

(d) To the maximum extent permitted under applicable Law, each Party shall (i) promptly (and in any event within five (5) Business Days) notify the other Party if it or its Affiliate receives a complaint, notice or communication (including request from a Data Subject to exercise their rights under Data Protection Laws) in relation to any Personal Data processed pursuant to this Agreement or any Ancillary Agreement, and (ii) without undue delay (and in any event within forty-eight (48) hours) if it becomes aware of, or reasonably suspects, a Personal Data Breach affecting the Personal Data of the other Party or its Affiliates.

## **ARTICLE X**

### **DISPUTE RESOLUTION**

#### **Section 10.1 Negotiation and Arbitration.**

(a) In the event of a controversy, dispute or Action between the Parties arising out of, in connection with, or in relation to this Agreement or any of the transactions contemplated hereby, including with respect to the interpretation, performance, nonperformance, validity or breach thereof, and including, but not limited to, any question of the arbitral tribunal's jurisdiction, the existence, scope or validity of this arbitration agreement or the arbitrability of any claim, and any controversy, dispute or Action related to Section 9.7 concerning Privilege issues (a "Dispute"), the following provisions shall apply, unless expressly specified herein.

(b) Negotiation. The following procedures shall apply with respect to Disputes, except in cases of Disputes related to Section 9.7 concerning Privilege issues (in which case the procedure in Section 9.7(c) shall apply):

(i) At such time as a Dispute arises, (A) any Party shall deliver written notice of such Dispute to the other Party (a "General Dispute Notice") and (B) the general counsels of the Parties and/or such other executive officer designated by a Party in writing shall thereupon negotiate for a reasonable period of time to settle such Dispute; provided, however, that such reasonable period shall not, unless otherwise agreed by each Party in writing, exceed ninety (90) days from the date of receipt by the relevant Party of the General Dispute Notice (the "General Negotiation Period").

(ii) With respect to the subject Dispute, no Party shall be entitled to rely upon the expiry of any limitations period or contractual deadline during the period between the date of receipt of the relevant General Dispute Notice and the earlier to occur of (A) the date of any arbitration being commenced under this Section 10.1 with respect to the Dispute and (B) the later to occur of (x) one hundred and eighty (180) days after the date of receipt of the relevant General Dispute Notice and (y) the expiration of the applicable General Negotiation Period.

(iii) All offers, promises, conduct and statements, whether oral or written, made in the course of the discussions and negotiations related to the relevant General Negotiation Period by any Party or the members of their respective Groups (and its and their respective Affiliates), their respective agents, employees, experts and attorneys are confidential, privileged and inadmissible for any purpose, including impeachment, in any arbitration or other proceeding involving the Parties or the members of their respective Groups (and their respective Affiliates) and, in any Action, shall not be admissible in any future Action between the Parties, any member of their respective Groups and/or any Indemnitee; provided that evidence that is otherwise admissible or discoverable shall not be rendered inadmissible or non-discoverable as a result of its use in the negotiation or discussion.

(c) Arbitration. If the Dispute has not been resolved in writing for any reason as of the expiration of the applicable Negotiation Period, such Dispute shall be submitted, at the request of any Party, to final and binding arbitration administered by the American Arbitration Association's International Centre for Dispute Resolution (the "ICDR") in accordance with its International Arbitration Rules then in effect (the "Rules"), except as modified herein.

(i) The arbitration shall be conducted by a three-member arbitral tribunal (the "Arbitral Tribunal"). The claimant or claimants, collectively, shall appoint one arbitrator in the notice of arbitration and the respondent or respondents, collectively, shall appoint one arbitrator within fourteen (14) days after the appointment of the first arbitrator. The third arbitrator, who shall serve as chair of the Arbitral Tribunal, shall be jointly appointed by the two party-nominated arbitrators, in consultation with the Parties, within twenty-one (21) days of the appointment of the second arbitrator. Any arbitrator not timely appointed shall be appointed by the ICDR according to its Rules.

(ii) In resolving any Dispute to the extent it involves contractual issues under this Agreement, the arbitrators shall apply the governing law specified herein.

(iii) Arbitration under this Section 10.1 shall be the sole and exclusive remedy for any Dispute, and any award rendered by the arbitrators shall be final and binding on the Parties and judgment thereupon may be entered in any court of competent jurisdiction having jurisdiction thereof, including any court having jurisdiction over the relevant Party or its Assets.

(iv) The Arbitral Tribunal shall be entitled, if appropriate, to award any remedy, including monetary damages, specific performance and all other forms of legal and equitable relief that is in accordance with the terms of this Agreement; provided, however, that the Arbitral Tribunal shall have no authority or power to (A) limit, expand, alter, modify, revoke or suspend any condition or provision of this Agreement, (B) award punitive, exemplary, treble or similar damages, except as set forth in Section 10.1(c)(v), or (C) review, resolve or adjudicate, or render any award or grant any relief in respect of, any issue, matter, claim or Dispute other than the specific Dispute or Disputes submitted by the parties to such Arbitral Tribunal for final and binding arbitration, including any Disputes consolidated therewith in accordance with Section 10.1(c)(viii).

(v) The Arbitral Tribunal shall have the power to award the prevailing party its attorneys' fees and costs reasonably incurred in the arbitration (including the fees and expenses of the arbitration, the Arbitral Tribunal's fees and the fees and expenses of the ICDR). If any Party files an Action in contravention of the arbitration agreement in this Section 10.1, the other Party shall be entitled to an award of any costs they may incur in defending such an Action, including a fee in an amount equal to \$25,000,000, multiplied by 1.05 raised to the power of the number of years elapsed since the Distribution Date (expressed in decimal form), as well as such additional punitive, exemplary, treble or similar damages as may be awardable under applicable Law. Each of the Parties acknowledges and agrees that if any Party files an Action in contravention of the arbitration agreement in this Section 10.1, the non-breaching Party shall suffer reputational loss as a direct consequence of such Action for which it is entitled to damages.

(vi) The arbitration shall be seated in, and the award shall be rendered, in New York County, New York, in the English language.

(vii) The arbitration and this arbitration agreement shall be governed by the Federal Arbitration Act (9 U.S.C. § 1 et seq.).

(viii) A Party may request consolidation of two or more arbitrations pending under the Rules into a single arbitration pursuant to the Rules. The Parties agree that two or more arbitration proceedings may be consolidated in accordance with this Section 10.1(c)(viii) and subject to the Rules even if the parties to such arbitration proceedings are not identical. Any order of consolidation issued pursuant to the Rules shall be final and binding upon the parties to the new Dispute, prior pending or subsequently-filed arbitrations. The Parties waive any right they have to appeal or to seek interpretation, revision or annulment of such order of consolidation under the Rules or in any court.

(ix) The Arbitral Tribunal (and, if applicable, Emergency Arbitrator) shall have the full authority to grant any pre-arbitral injunction, pre-arbitral attachment, interim or conservatory measure or other order in aid of arbitration proceedings ("Interim Relief"). The Parties shall exclusively submit any application for Interim Relief to only: (A) the Arbitral Tribunal; or (B) prior to the constitution of the Arbitral Tribunal, an Emergency Arbitrator appointed in the manner provided for in the Rules. Any Interim Relief so issued shall, to the extent permitted by applicable Law, be

deemed a final arbitration award for purposes of enforceability, and, moreover, shall also be deemed a term and condition of this Agreement subject to specific performance in Section 12.19. The foregoing procedures shall constitute the exclusive means of seeking Interim Relief; provided, however, that (I) the Arbitral Tribunal shall have the power to continue, review, vacate or modify any Interim Relief granted by an Emergency Arbitrator, and the Arbitral Tribunal shall apply a *de novo* standard of review to the factual and legal findings of the Emergency Arbitrator and conduct any such proceeding with respect to the actions of the Emergency Arbitrator on an expedited basis; and (II) in the event an Emergency Arbitrator or the Arbitral Tribunal issues an order granting, denying or otherwise addressing Interim Relief (a “Decision on Interim Relief”), any Party may apply to enforce or require specific performance of such Decision on Interim Relief in any court of competent jurisdiction.

(x) The Parties consent and submit to the non-exclusive jurisdiction of any federal court located in the State of New York or, where such court does not have jurisdiction, any New York state court, in either case located in the Borough of Manhattan, New York City, New York (“New York Court”) to enforce the dispute resolution provisions in this Section 10.1, or to enforce any award, relief or decision issued by an Arbitral Tribunal (or, if applicable, Emergency Arbitrator). In any such action: (A) each of the Parties irrevocably waives, to the fullest extent it may effectively do so, any objection, including any objection to the laying of venue or based on the grounds of *forum non conveniens* or any right of objection to jurisdiction on account of its place of incorporation or domicile, which it may now or hereafter have to the bringing of any such action or proceeding in any New York Court; (B) each of the Parties irrevocably consents to service of process by the mailing of copies of the process to the Parties as provided in Section 12.6, with service effected in this manner becoming effective five (5) days after the mailing of the process; and (C) each of the Parties waives any right to trial by jury in any court.

(xi) EACH PARTY HEREBY IRREVOCABLY AND UNCONDITIONALLY WAIVES ANY RIGHT SUCH PARTY MAY HAVE TO A TRIAL BY JURY IN RESPECT OF ANY LITIGATION DIRECTLY OR INDIRECTLY ARISING OUT OF OR RELATING TO THIS AGREEMENT. EACH PARTY CERTIFIES AND ACKNOWLEDGES THAT (A) NO REPRESENTATIVE, AGENT OR ATTORNEY OF THE OTHER PARTY HAS REPRESENTED, EXPRESSLY OR OTHERWISE, THAT SUCH OTHER PARTY WOULD NOT, IN THE EVENT OF LITIGATION, SEEK TO ENFORCE THE FOREGOING WAIVER, (B) EACH SUCH PARTY UNDERSTANDS AND HAS CONSIDERED THE IMPLICATIONS OF THIS WAIVER, (C) EACH SUCH PARTY MAKES THIS WAIVER VOLUNTARILY AND (D) EACH SUCH PARTY HAS BEEN INDUCED TO ENTER INTO THIS AGREEMENT BY, AMONG OTHER THINGS, THE MUTUAL WAIVERS AND CERTIFICATIONS IN THIS SECTION 10.1.



(d) Confidentiality. Without limiting the provisions of the Rules, unless otherwise agreed in writing by or among the Parties or permitted by this Agreement, the Parties shall keep, and shall cause the members of their applicable Group to keep, confidential all matters relating to the arbitration (including the existence of the proceeding and all of its elements and including any pleadings, briefs or other documents submitted or exchanged, any testimony or other oral submissions) or the award, and any negotiations, conferences and discussions pursuant to this Article X shall be treated as compromise and settlement negotiations; provided that such matters may be disclosed (i) to the extent reasonably necessary in any proceeding brought to enforce this Article X or the award or for entry of a judgment upon the award and (ii) to the extent otherwise required by Law. Nothing said or disclosed, nor any document produced, in the course of any negotiations, conferences and discussions that is not otherwise independently discoverable shall be offered or received as evidence or used for impeachment or for any other purpose in any current or future arbitration. In the event any Party makes application to any court in connection with this Section 10.1(d) (including any proceedings to enforce a final award or any Interim Relief), that Party shall take all steps reasonably within its power to cause such application, and any exhibits (including copies of any award or decisions of the Arbitral Tribunal or Emergency Arbitrator) to be filed under seal, shall oppose any challenge by any third party to such sealing, and shall give the other Party immediate notice of such challenge.

Section 10.2 Continuity of Service and Performance. Unless otherwise agreed in writing, the Parties will continue to provide service and honor all other commitments under this Agreement and each Ancillary Agreement during the course of dispute resolution pursuant to the provisions of this Article X with respect to all matters not subject to such dispute resolution.

## **ARTICLE XI**

### **INSURANCE**

#### Section 11.1 Access to Insurance Policies for Pre-Distribution Matters

(a) Subject to and without limiting Article VII, with respect to Liabilities of RemainCo that (x) constitute ElectronicsCo Liabilities (other than those incurred by a member of the RemainCo Group) or (y) are otherwise incurred by a member of the ElectronicsCo Group, in each case to the extent related to or arising from occurrences, acts, omissions or other matters prior to the Distribution Date, any rights to insurance coverage applicable to those Liabilities under Insurance Policies issued to any members of the RemainCo Group, are hereby assigned by RemainCo (on behalf of itself and the applicable members of its Group) to the applicable members of the ElectronicsCo Group on that same date. RemainCo shall (or shall cause the applicable member of its Group to) provide the applicable member of the ElectronicsCo Group with, from and after the Distribution Date, access to, and the right to make claims under, the applicable Insurance Policy; provided that such access to, and the right to make claims under, such Insurance Policy shall be subject to the terms, conditions and exclusions of such Insurance Policy, including any notice or reporting requirements under the occurrence-reported excess general liability Insurance Policies, any limits on coverage or scope, and any deductibles, retentions, retrospective premiums, and other chargeback amounts, fees, costs and expenses, and shall be subject to the following:

(i) To the extent permitted under such Insurance Policy, the applicable members of the ElectronicsCo Group shall be responsible for the submission, administration and management of any such claims under such Insurance Policy; provided that ElectronicsCo shall provide reasonable written notice to the applicable member of the RemainCo Group prior to submitting any such claims;

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(ii) If such Insurance Policy does not permit the applicable members of the ElectronicsCo Group to directly submit claims thereunder, ElectronicsCo shall, or shall cause the applicable member of its Group to, report any such claims under such Insurance Policy as soon as practicable to RemainCo, and RemainCo shall, or shall cause the applicable member of its Group to, submit such claims directly to the applicable Insurer(s); provided that ElectronicsCo (or the applicable member of its Group) shall (x) be responsible for (A) the preparation of any documents that are required for the submission of such claims and (B) the administration and management of such claims after submission, and (y) provide RemainCo or the applicable member of its Group with such documents or other information necessary for the submission of such claims by RemainCo or the applicable member of its Group, on behalf of ElectronicsCo or the applicable member of its Group;

(iii) The members of the RemainCo Group shall reasonably cooperate with the applicable members of the ElectronicsCo Group in the pursuit of any such claims under such Insurance Policies, including by providing the applicable members of the ElectronicsCo Group with commercially reasonable access to the applicable Insurance Policy(ies) upon the written request of ElectronicsCo and promptly remitting insurance proceeds to the applicable members of the ElectronicsCo Group;

(iv) ElectronicsCo (or the applicable members of its Group) shall be responsible for any payments to the applicable Insurer under such Insurance Policy relating to its claims submissions and shall indemnify, hold harmless and reimburse RemainCo (and the applicable members of its Group) for any losses, liabilities, costs or expenses incurred or payable by RemainCo (or any members of its Group), as applicable, to the extent resulting from any access to, or any claims made by ElectronicsCo (or any members of its Group) under, any such Insurance Policy in accordance with this Section 11.1(a) (with respect to ElectronicsCo Liabilities), including

any deductibles, retentions, retrospective premiums and other chargeback amounts, fees, costs and expenses, indemnity payments, settlements, judgments, attorneys' fees, allocated claims expenses and claim handling fees, whether such claims are submitted directly or indirectly by ElectronicsCo, a member of the ElectronicsCo Group, its or their employees or third parties;

(v) ElectronicsCo (or the applicable members of its Group) shall bear (and none of the RemainCo Group shall have any obligation to repay or reimburse the ElectronicsCo Group for) and shall be liable for all excluded, uninsured, uncovered, unavailable or uncollectible amounts of all such claims made by ElectronicsCo or any members of the ElectronicsCo Group under such Insurance Policy (unless otherwise constituting a RemainCo Liability); and

(vi) No member of the ElectronicsCo Group, in connection with making a claim under any such Insurance Policy pursuant to this Section 11.1(a), shall take any action or fail to take any action that would be reasonably likely to (w) have an adverse impact on the then-current relationship between any member of the RemainCo Group, on the one hand, and the applicable Insurer(s), on the other hand; (x) result in the applicable Insurer(s) terminating or reducing coverage for, or increasing the amount of any premium owed by, any member of the RemainCo Group under such Insurance Policy; (y) otherwise compromise, jeopardize or interfere with the rights of any member of the RemainCo Group under such Insurance Policy; or (z) otherwise compromise or impair the ability of RemainCo to enforce its rights with respect to any indemnification under or arising out of this Agreement, and RemainCo shall have the right to cause ElectronicsCo to desist, or cause any other member of the ElectronicsCo Group to desist, from any action that RemainCo reasonably determines would compromise or impair its rights in accordance with this clause (z); provided that this Section 11.1(a)(vi) shall not preclude or otherwise restrict any member of the ElectronicsCo Group from reporting claims to Insurers in the ordinary course of business.

(b) Subject to and without limiting Article VII, with respect to Liabilities of RemainCo that (x) constitute RemainCo Liabilities (other than those incurred by a member of the ElectronicsCo Group) or (y) are otherwise incurred by a member of the RemainCo Group, in each case to the extent related to or arising from occurrences, acts, omissions or other matters prior to the Distribution Date, any rights to insurance coverage applicable to those Liabilities under Insurance Policies issued to any members of the ElectronicsCo Group, are hereby assigned by ElectronicsCo (on behalf of itself and the applicable members of its Group) to the applicable members of the RemainCo Group on that same date. ElectronicsCo shall (or shall cause the applicable member of its Group to) provide the applicable member of the RemainCo Group with, from and after the Distribution Date, access to, and the right to make claims under, the applicable Insurance Policy; provided that such access to, and the right to make claims under, such Insurance Policy shall be subject to the terms, conditions and exclusions of such Insurance Policy, including any notice or reporting requirements under the occurrence-reported excess general liability Insurance Policies, any limits on coverage or scope, and any deductibles, retentions, retrospective premiums, and other chargeback amounts, fees, costs and expenses, and shall be subject to the following:

(i) To the extent permitted under such Insurance Policy, the applicable members of the RemainCo Group shall be responsible for the submission, administration and management of any such claims under such Insurance Policy; provided that RemainCo shall provide reasonable written notice to the applicable member of the ElectronicsCo Group prior to submitting any such claims;

(ii) If such Insurance Policy does not permit the applicable members of the RemainCo Group to directly submit claims thereunder, RemainCo shall, or shall cause the applicable member of its Group to, report any such claims under such Insurance Policy as soon as practicable to ElectronicsCo, and ElectronicsCo shall, or shall cause the applicable member of its Group to, submit such claims directly to the applicable Insurer(s); provided that RemainCo (or the applicable member of its Group) shall (x) be responsible for (A) the preparation of any documents that are required for the submission of such claims and (B) the administration and management of such claims after submission, and (y) provide ElectronicsCo, or the applicable member of its Group with such documents, forms, or other information necessary for the submission of such claims by ElectronicsCo, or the applicable member of its Group, on behalf of RemainCo or the applicable member of its Group;

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(iii) The members of the ElectronicsCo Group shall reasonably cooperate with the applicable members of the RemainCo Group in the pursuit of any such claims under such Insurance Policies, including by providing the applicable members of the RemainCo Group with commercially reasonable access to the applicable Insurance Policy(ies) upon the written request of RemainCo and promptly remitting insurance proceeds to the applicable members of the RemainCo Group;

(iv) RemainCo (or the applicable members of its Group) shall be responsible for any payments to the applicable Insurer under such Insurance Policy relating to its claims submissions, and shall indemnify, hold harmless and reimburse ElectronicsCo (and the applicable member of its Group) for any losses, liabilities, costs or expenses incurred or payable by ElectronicsCo (or any members of its Group), as applicable, to the extent resulting from any access to, or any claims made by RemainCo (or any members of the RemainCo Group) under, any such Insurance Policy in accordance with this Section 11.1(b) (with respect to RemainCo Liabilities), including any deductibles, retentions, retrospective premiums and other chargeback amounts, fees, costs and expenses, indemnity payments, settlements, judgments, attorneys' fees, allocated claims expenses and claim handling fees, whether such claims are submitted directly or indirectly by RemainCo, a member of the RemainCo Group, its or their employees or third parties;

(v) RemainCo (or the applicable members of its Group) shall bear (and none of the ElectronicsCo Group shall have any obligation to repay or reimburse the RemainCo Group for) and shall be liable for all excluded, uninsured, uncovered, unavailable or uncollectible amounts of all such claims made by RemainCo or any members of the RemainCo Group under such Insurance Policy (unless otherwise constituting an ElectronicsCo Liability); and

(vi) No member of the RemainCo Group, in connection with making a claim under any such Insurance Policy pursuant to this Section 11.1(b), shall take any action or fail to take any action that would be reasonably likely to (w) have an adverse impact on the then-current relationship between any member of the ElectronicsCo Group, on the one hand, and the applicable Insurer(s), on the other hand; (x) result in the applicable Insurer(s) terminating or reducing coverage for, or increasing the amount of any premium owed by, any member of the ElectronicsCo Group under such Insurance Policy; (y) otherwise compromise, jeopardize or interfere with the rights of any member of the ElectronicsCo Group under such Insurance Policy; or (z) otherwise compromise or impair the ability of ElectronicsCo to enforce its rights with respect to any indemnification under or arising out of this Agreement, and ElectronicsCo shall have the right to cause RemainCo to desist, or cause any other member of the RemainCo Group to desist, from any action that ElectronicsCo reasonably determines would compromise or impair its rights in accordance with this clause (z); provided that this Section 11.1(b)(vi) shall not preclude or otherwise restrict any member of the RemainCo Group from reporting claims to Insurers in the ordinary course of business.

(c) Subject to and without limiting Article VII, with respect to any Insurance Policies whose rights are shared between RemainCo and ElectronicsCo (or any member of their respective Groups), claims shall be paid, any self-insurance pertaining thereto shall be applied, and the applicable limits under such Insurance Policies shall be reduced, in each case, in accordance with the terms of such Insurance Policies; provided, however, (i) in the event that there are claims under any such Insurance Policy by both a member of the RemainCo Group and a member of the ElectronicsCo Group, then the limits of such Insurance Policy and any applicable deductible or retention under such Insurance Policy shall be allocated between the applicable members of the RemainCo Group and the ElectronicsCo Group in accordance with their respective *bona fide* losses covered under such Insurance Policy; and (ii) none of RemainCo or ElectronicsCo (or any member of their respective Groups) shall accelerate or delay the notification, submission, adjustment, handling or resolution of claims or the receipt of Insurance Proceeds in a manner that would differ from that which each would follow in the ordinary course when acting without regard to sufficiency of limits or the terms of self-insurance.

(d) Subject to and without limiting Article VII, the members of each Group shall use commercially reasonable efforts not to take any action or fail to take any action that would be reasonably likely to eliminate or substantially reduce the coverage of any member of the other Group under any Insurance Policy in respect of occurrence, act, omission or other matter taking place prior to the Distribution without the Consent of any such member of the other Group (or the Consent of RemainCo or ElectronicsCo, as applicable, on behalf of such member); provided that (i) the expiration of any such Insurance Policies in accordance with their respective terms (including sending a notice of non-renewal) is expressly permitted; and (ii) the submission of a claim by any member of one Group shall not constitute an action that is reasonably likely to eliminate or substantially reduce the coverage of any member of the other Group.

Section 11.2 Cyber Insurance. To the extent that RemainCo continues or renews its cyber Insurance Policy, then, for a period of at least two (2) years, RemainCo and its Affiliates shall use commercially reasonable efforts not to take any action or fail to take any action that would be reasonably likely to eliminate or substantially reduce the coverage available to any Person within the ElectronicsCo Group with respect to acts, omissions or other matters taking place prior to the Distribution; provided that the submission of a claim by any member of the RemainCo Group shall not constitute an action that is reasonably likely to eliminate or substantially reduce the coverage of any such Person. The members of the RemainCo Group shall reasonably cooperate with any Person who is covered by any such cyber Insurance Policy in such Person's pursuit of any insurance claims under such cyber Insurance Policy that would inure to the benefit of such Person. The members of the RemainCo Group shall allow the members of the ElectronicsCo Group, and their respective agents and representatives, upon reasonable prior notice and during regular business hours, to examine and make copies of the relevant cyber Insurance Policy and shall provide such cooperation as is reasonably requested by the members of the ElectronicsCo Group.

Section 11.3 Fiduciary Liability Insurance. On or prior to the Distribution Date, to be effective on the Distribution Date, RemainCo shall purchase and obtain fiduciary liability "tail" insurance with a six (6)-year reporting period covering the RemainCo Group and the ElectronicsCo Group and their respective insured persons with respect to acts, omissions or other matters occurring at or prior to the Distribution Date; provided that the financial responsibility for the purchase of such "tail" shall be borne by each Group in accordance with its respective Applicable Percentage.

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Section 11.4 Directors and Officers Indemnification and Insurance.

(a) For a period of six (6) years from and after the Distribution Date, (i) the Third Amended and Restated Certificate of Incorporation and Amended and Restated Bylaws of RemainCo, in each case, as amended and restated or otherwise modified from time to time, shall contain provisions no less favorable with respect to indemnification than are set forth in the Third Amended and Restated Certificate of Incorporation and Amended and Restated Bylaws of RemainCo immediately before the Distribution, which provisions shall not be amended, repealed or otherwise modified for a period of six (6) years from and after the Distribution Date in any manner that would affect adversely the rights thereunder of individuals who, at or prior to the Distribution, were indemnified under such Third Amended and Restated Certificate of Incorporation and Amended and Restated Bylaws, unless such amendment, repeal, or modification shall be required by Law and then only to the minimum extent required by Law or approved by RemainCo's stockholders, and (ii) the Amended and Restated Certificate of Incorporation and Amended and Restated Bylaws of ElectronicsCo, in each case, as amended and restated or otherwise modified from time to time, shall contain provisions no less favorable with respect to indemnification than are set forth in the Amended and Restated Certificate of Incorporation and Amended and Restated Bylaws of ElectronicsCo immediately before the Distribution, which provisions shall not be amended, repealed or otherwise modified for a period of six (6) years from and after the Distribution Date in any manner that would affect adversely the rights thereunder of individuals who, at or prior to the Distribution Date, were indemnified under such Amended and Restated Certificate of Incorporation and Amended and Restated Bylaws, unless such amendment, repeal, or modification shall be required by Law and then only to the minimum extent required by Law or approved by ElectronicsCo's stockholders.

(b) On or prior to the Distribution Date, to be effective on the Distribution Date, RemainCo shall purchase and obtain directors and officers liability "tail" insurance with a six (6)-year reporting period covering the RemainCo Group and the ElectronicsCo Group and their respective insured persons with respect to acts, omissions or other matters occurring at or prior to the Distribution Date; provided that the financial responsibility for the purchase of such "tail" shall be borne by each Group in accordance with its respective Applicable Percentage.

Section 11.5 Insurance for Post-Distribution Matters. Except as provided in this Article XI, from and after the Distribution, each Group shall be responsible, at its sole cost and expense, for securing all insurance it deems appropriate for the operation of its Group and all of its Assets and Liabilities with respect to occurrences, acts, omissions or other matters occurring from and after the Distribution.

Section 11.6 No Assignment of Entire Insurance Policies. This Agreement shall not be considered as an attempted assignment of any Insurance Policy in its entirety (as opposed to an assignment of rights and proceeds under an Insurance Policy), nor is it considered to be itself a contract of insurance. This Agreement shall not be construed to waive any right or remedy of any Party under or with respect to any Insurance Policy, and the Parties reserve all their rights thereunder.

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Section 11.7 Agreement for Waiver of Conflict and Shared Defense. Subject to and without limiting Article VII, in the event of any Action by or against members of both Groups to recover Insurance Proceeds under an Insurance Policy with respect to claims that relate to the same or related occurrences, acts, omissions or other matters, then the Parties (or the applicable member of such Party's Group) may jointly prosecute or defend any such Action, in which case each Party shall, or shall cause the applicable members of its Group to, waive any conflict of interest to the extent necessary to conduct such joint prosecution or defense.

## **ARTICLE XII**

### **MISCELLANEOUS**

Section 12.1 Complete Agreement; Construction. This Agreement, including the Exhibits and Schedules, the Ancillary Agreements and, solely to the extent and for the limited purpose of effecting the Internal Reorganization, the Conveyancing and Assumption Instruments shall constitute the entire agreement between the Parties with respect to the subject matter hereof and shall supersede all previous negotiations, commitments, course of dealings and writings with respect to such subject matter. In the event of any inconsistency between this Agreement and any Exhibit or Schedule hereto, the Exhibit or Schedule shall prevail. In the event and to the extent that there shall be a conflict between the provisions of (a) this Agreement and the provisions of any Ancillary Agreement, such Ancillary Agreement shall control (except with respect to any provisions relating to the Transfer of Assets to, or the Assumption of Liabilities by, a Party or a member of its Group, the Internal Reorganization, the Distribution, the covenants and obligations set forth in Article V, Article VI, Article VII, Article VIII, Article IX, Article X and Article XI or the application of Article XII to the terms of this Agreement (or, in each case, any indemnification rights pursuant to this Agreement in respect thereof and/or any other remedies pursuant to this Agreement in respect of any breach of any covenant or obligation under this Agreement), in which case this Agreement shall control), (b) this Agreement and any Conveyancing and Assumption Instrument, this Agreement shall control and (c) this Agreement and any agreement which is not an Ancillary Agreement (other than a Conveyancing and Assumption Instrument), this Agreement shall control unless both (x) it is specifically stated in such agreement that such agreement controls and (y) such agreement has been executed by a member of the Group that it is to be enforced against. Except as expressly set forth in this Agreement or any Ancillary Agreement, (i) all matters relating to Taxes and Tax Returns of the Parties and their respective Subsidiaries shall be governed exclusively by the Tax Matters Agreement, and (ii) for the avoidance of doubt, in the event of any conflict between this Agreement or any Ancillary Agreement, on the one hand, and the Tax Matters Agreement, on the other hand, with respect to such matters, the terms and conditions of the Tax Matters Agreement shall govern.

Section 12.2 Ancillary Agreements. Except as expressly set forth herein, this Agreement is not intended to address, and should not be interpreted to address, the matters specifically and expressly covered by the Ancillary Agreements.

Section 12.3 Counterparts. This Agreement may be executed and delivered (including by facsimile or other means of electronic transmission, such as by electronic mail in “pdf” form) in more than one counterpart, all of which shall be considered one and the same agreement, each of which when executed shall be deemed to be an original, and shall become effective when one or more such counterparts have been signed by each of the Parties and delivered to each of the Parties.

Section 12.4 Survival of Agreements. Except as otherwise contemplated by this Agreement or any Ancillary Agreement, all covenants and agreements of the Parties contained in this Agreement and each Ancillary Agreement shall survive the Effective Time and remain in full force and effect in accordance with their applicable terms.

Section 12.5 Expenses. Except as otherwise provided in this Agreement or any Ancillary Agreement, including Section 2.12, RemainCo shall be liable for costs and expenses incurred, by members of the RemainCo Group or the ElectronicsCo Group prior to the Distribution and directly related to the consummation of the transactions contemplated hereby, including third party professional fees (e.g., outside legal and accounting fees) and other fees and expenses incurred in connection with the preparation, execution and delivery and implementation of this Agreement, costs and expenses relating to the Distribution Disclosure Documents and the Distribution (including printing, mailing and filing fees), costs and expenses incurred with the listing of ElectronicsCo’s common stock on a stock exchange in connection with the Distribution, and costs and expenses incurred in connection with the Internal Reorganization (collectively, “Transaction Expenses”); provided, however, in the event of any inconsistency between this Section 12.5, on the one hand, and clauses (ii), (iv), (xv) and (xvii)(b) of the definition of ElectronicsCo Liabilities and clauses (iv) and (xvi)(b) of the definition of RemainCo Liabilities, on the other hand, clauses (ii), (iv), (xv) and (xvii)(b) of the definition of ElectronicsCo Liabilities and clauses (iv) and (xvi)(b) of the definition of RemainCo Liabilities shall control.

Section 12.6 Notices. Notices, requests, instructions or other documents to be given under this Agreement shall be in writing and shall be deemed to have been properly delivered, given and received, (a) on the date of transmission if sent via email (provided, however, that notice given by email shall not be effective unless either (i) a duplicate copy of such email notice is promptly given by one of the other methods described in this Section 12.6 or (ii) the receiving party delivers a written confirmation of receipt of such notice either by email or any other method described in this Section 12.6 (excluding “out of office” or other automated replies)), (b) when delivered, if delivered personally to the intended recipient, and (c) one (1) Business Day later, if sent by overnight delivery via a national courier service (providing proof of delivery), and in each case, addressed to a Party at the address for such Party set forth on a schedule to be delivered by each Party to the address set forth below (or at such other address for a Party as shall be specified in a notice given in accordance with this Section 12.6):



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To RemainCo:

DuPont de Nemours, Inc.  
974 Centre Road, Building 730  
Wilmington, DE 19805  
Attention: Erik T. Hoover  
Email: [•]

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

Skadden, Arps, Slate, Meagher & Flom LLP  
One Manhattan West  
New York, NY 10001  
Attention: Brandon Van Dyke, Esq.  
Kyle J. Hatton, Esq.  
Jonathan M. Lee, Esq.  
Email: Brandon.VanDyke@skadden.com  
Kyle.Hatton@skadden.com  
Jonathan.Lee@skadden.com

To ElectronicsCo:

Qnity Electronics, Inc.  
974 Centre Road, Building 735  
Wilmington, Delaware 19805  
Attention: Peter W. Hennessey  
Email: [•]

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

Skadden, Arps, Slate, Meagher & Flom LLP  
One Manhattan West  
New York, NY 10001  
Attention: Brandon Van Dyke, Esq.  
Kyle J. Hatton, Esq.  
Jonathan M. Lee, Esq.  
Email: Brandon.VanDyke@skadden.com  
Kyle.Hatton@skadden.com  
Jonathan.Lee@skadden.com

Section 12.7 Waivers. Any provision of this Agreement may be waived, if and only if, such waiver is in writing and signed by the Party against whom the waiver is to be effective. Notwithstanding the foregoing, no failure to exercise and no delay in exercising, on the part of any Party, any right, remedy, power or privilege hereunder shall operate as a waiver hereof; nor shall any single or partial exercise of any right, remedy, power or privilege hereunder preclude any other or further exercise thereof or the exercise of any other right, remedy, power or privilege. Any consent required or permitted to be given by any Party to the other Party under this Agreement shall be in writing and signed by the Party giving such consent and shall be effective only against such Party (and the members of its Group).

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Section 12.8 Amendments. Subject to the terms of Section 12.11 hereof, this Agreement may not be modified or amended except by an agreement in writing specifically designated as an amendment hereto signed by each of the Parties.

Section 12.9 Assignment. Except as otherwise provided for in this Agreement, neither this Agreement nor any right, interest or obligation shall be assignable, in whole or in part, directly or indirectly, by any Party without the prior written consent of the other Party (not to be unreasonably withheld, conditioned or delayed), and any attempt to assign any rights, interests or obligations arising under this Agreement without such consent shall be void; except, that a Party may assign this Agreement or any or all of the rights, interests and obligations hereunder in connection with a merger, reorganization or consolidation transaction in which such Party is a constituent party but not the surviving entity or the sale by such Party of all or substantially all of its Assets; provided that the surviving entity of such merger, reorganization or consolidation transaction or the transferee of such Assets shall assume all the obligations of the relevant Party by operation of law or pursuant to an agreement in writing, reasonably satisfactory to the other Party, to be bound by the terms of this Agreement as if named as a “Party” hereto; provided, however, that in the case of each of the preceding clauses, no assignment permitted by this Section 12.9 shall release the assigning Party from Liability for the full performance of its obligations under this Agreement, unless agreed to in writing by the non-assigning Parties.

Section 12.10 Successors and Assigns. The provisions of this Agreement and the obligations and rights hereunder shall be binding upon, inure to the benefit of and be enforceable by (and against) the Parties and their respective successors and permitted transferees and assigns.

Section 12.11 Certain Termination and Amendment Rights. This Agreement (including Article VIII hereof) may be terminated at any time prior to the Distribution Date by and in the sole discretion of the Board without the approval of ElectronicsCo or the stockholders of RemainCo and, in the event of such termination, no Party shall have any liability of any kind to the other Party or any other Person. The Distribution may be amended, modified or abandoned at any time prior to the Distribution Date by and in the sole discretion of the Board without the approval of ElectronicsCo or the stockholders of RemainCo. After the Distribution Date, this Agreement may not be terminated or amended except by an agreement in writing signed by each of the Parties. Notwithstanding the foregoing, Article VIII, Section 11.3 or Section 11.4 shall not be terminated or amended after the Effective Time in a manner adverse to the third party beneficiaries thereof without the Consent of any such Person.

Section 12.12 Payment Terms.

(a) Except as set forth in Article VIII or as otherwise expressly provided to the contrary in this Agreement, any amount to be paid or reimbursed by a Party (and/or a member of such Party’s Group), on the one hand, to the other Party (and/or a member of such other Party’s respective Group), on the other hand, under this Agreement shall be paid or reimbursed hereunder within thirty (30) days after presentation of an invoice or a written demand therefor and setting forth, or accompanied by, reasonable documentation or other reasonable explanation supporting such amount.

(b) Except as set forth in Article VIII or as expressly provided to the contrary in this Agreement, any amount not paid when due pursuant to this Agreement (and any amount billed or otherwise invoiced or demanded and properly payable that is not paid within thirty (30) days of such bill, invoice or other demand) shall bear interest at a rate per annum equal to SOFR (in effect on the date on which such payment was due) plus 3% calculated for the actual number of days elapsed, accrued from the date on which such payment was due up to the date of the actual receipt of payment; provided, however, in the event that SOFR is no longer commonly accepted by market participants, then an alternative floating rate index that is commonly accepted by market participants, which ElectronicsCo and RemainCo shall jointly determine, each acting in good faith.

(c) In the event of a dispute or disagreement with respect to all or a portion of any amounts requested by any Party (and/or a member of such Party's Group) as being payable, the payor Party shall in no event be entitled to withhold payments for any such amounts (and any such disputed amounts shall be paid in accordance with Section 12.12(a), subject to the right of the payor Party to dispute such amount following such payment); provided that in the event that following the resolution of such dispute it is determined that the payee Party (and/or a member of the payee Party's Group) was not entitled to all or a portion of the payment made by the payor Party, the payee Party shall repay (or cause to be repaid) such amounts to which it was not entitled, including interest, to the payor Party (or its designee), which amounts shall bear interest at a rate per annum equal to SOFR plus 3%, calculated for the actual number of days elapsed, accrued from the date on which such payment was made by the payor Party to the payee Party.

(d) Without the Consent of the Party receiving any payment under this Agreement specifying otherwise, all payments to be made by RemainCo or ElectronicsCo under this Agreement shall be made in U.S. dollars. Except as expressly provided herein, any amount which is not expressed in U.S. dollars shall be converted into U.S. dollars by using the Bloomberg fixing rate at 5:00 p.m. New York City Time on the day before the date the payment is required to be made or, as applicable, on which an invoice is submitted (provided, however, that with regard to any payments in respect of Indemnifiable Losses for payments made to third parties, the date shall be the day before the relevant payment was made to the third party) or in the Wall Street Journal on such date if not so published on Bloomberg. Except as expressly provided herein, in the event that any indemnification payment required to be made hereunder may be denominated in a currency other than U.S. dollars, the amount of such payment shall be converted into U.S. dollars on the date in which notice of the claim is given to the Indemnifying Party.

Section 12.13 No Circumvention. The Parties agree not to directly or indirectly take any actions, act in concert with any Person who takes an action, or cause or allow any member of any such Party's Group to take any actions (including the failure to take a reasonable action) such that the resulting effect is to materially undermine the effectiveness of any of the provisions of this Agreement (including adversely affecting the rights or ability of any Party to successfully pursue indemnification or payment pursuant to Article VII and VIII).

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Section 12.14 Subsidiaries. Each of the Parties shall cause to be performed, and hereby guarantees the performance of, all actions, agreements and obligations set forth herein to be performed by any Subsidiary of such Party or by any entity that becomes a Subsidiary of such Party on and after the Distribution Date.

Section 12.15 Third Party Beneficiaries. Except (a) as provided in Article VIII relating to Indemnitees and for the release under Section 8.1 of any Person provided therein, (b) as provided in Section 11.3 relating to insured persons and Section 11.4 relating to the directors, officers, employees, fiduciaries or agents provided therein, (c) as provided in Section 9.8 relating to RemainCo Counsel, (d) as provided in that certain letter agreement, dated as of November 1, 2025, by and among RemainCo, ElectronicsCo and Corteva, and (e) as specifically provided in any Ancillary Agreement, this Agreement is solely for the benefit of, and is only enforceable by, the Parties and their permitted successors and assigns and should not be deemed to confer upon third parties any remedy, benefit, claim, liability, reimbursement, claim of Action or other right of any nature whatsoever, including any rights of employment for any specified period, in excess of those existing without reference to this Agreement. For the avoidance of doubt, no term or provision of this Agreement (including any agreement or covenant to Assume or cause other members of any Group to Assume any Liabilities) shall create or otherwise give rise to any third party beneficiary right or be deemed to confer upon any third parties any remedy, benefit, claim, liability, reimbursement, claim of Action or other right of any nature whatsoever to enforce, whether directly or derivatively, (i) any of the RemainCo Liabilities against any member of the RemainCo Group or ElectronicsCo Group or (ii) any of the ElectronicsCo Liabilities against any member of the ElectronicsCo Group or RemainCo Group, or any other right, in each case other than as expressly set forth in the immediately preceding sentence.

Section 12.16 Title and Headings. Titles and headings to sections herein are inserted for the convenience of reference only and are not intended to be a part of or to affect the meaning or interpretation of this Agreement.

Section 12.17 Exhibits and Schedules. The Exhibits and Schedules shall be construed with and as an integral part of this Agreement to the same extent as if the same had been set forth verbatim herein. Nothing in the Exhibits or Schedules constitutes an admission of any Liability or obligation of any member of the RemainCo Group or the ElectronicsCo Group or any of their respective Affiliates to any third party, nor, with respect to any third party, an admission against the interests of any member of the RemainCo Group or the ElectronicsCo Group or any of their respective Affiliates. The inclusion of any item or Liability or category of item or Liability on any Exhibit or Schedule is made solely for purposes of allocating potential Liabilities among the Parties and shall not be deemed as or construed to be an admission that any such Liability exists.

Section 12.18 Governing Law. This Agreement and any dispute arising out of, in connection with or relating to this Agreement shall be governed by and construed in accordance with the Laws of the State of Delaware, without giving effect to the conflicts of laws principles thereof.

Section 12.19 Specific Performance. The Parties acknowledge and agree that irreparable harm would occur in the event that the Parties do not perform any provision of this Agreement in accordance with its specific terms or otherwise breach this Agreement and the remedies at law for any breach or threatened breach of this Agreement, including monetary damages, are inadequate compensation for any Indemnifiable Loss. Accordingly, from and after the Effective Time, in the event of any actual or threatened default in, or breach of, any of the terms, conditions and provisions of this Agreement, the Parties agree that the Parties to this Agreement who are or are to be thereby aggrieved shall, subject and pursuant to the terms of this Article XII (including for the avoidance of doubt, after compliance with all notice and negotiation provisions herein), have the right to specific performance and injunctive or other equitable relief of its or their rights under this Agreement, in addition to any and all other rights and remedies at law or in equity, and all such rights and remedies shall be cumulative. The Parties agree that any defense in any action for specific performance that a remedy at law would be adequate is hereby waived, and that any requirements for the securing or posting of any bond with such remedy are hereby waived.

Section 12.20 Severability. If any term, provision, covenant or restriction of this Agreement is held by a court of competent jurisdiction or other authority to be invalid, illegal, void or unenforceable, the remainder of the terms, provisions, covenants and restrictions of this Agreement shall remain in full force and effect and shall in no way be affected, impaired or invalidated so long as the economic or legal substance of the transactions contemplated hereby is not affected in any manner materially adverse to any Party. Upon a determination that any term, provision, covenant or restriction is invalid, illegal, void or unenforceable, the Parties shall negotiate in good faith to modify to the fullest extent permitted by applicable Law this Agreement so as to effect the original intent of the Parties as closely as possible in a mutually acceptable manner in order that the transactions contemplated hereby be consummated as originally contemplated to the fullest extent possible.

Section 12.21 No Duplication; No Double Recovery. Nothing in this Agreement is intended to confer to or impose upon any Party a duplicative right, entitlement, obligation or recovery with respect to any matter arising out of the same facts and circumstances (including with respect to the rights, entitlements, obligations and recoveries that may arise out of one or more of the following Sections: Section 7.3, Section 8.2, Section 8.3 and Section 8.4).

Section 12.22 Public Announcements. From and after the Effective Time, RemainCo and ElectronicsCo hereby agree to (a) coordinate with the other Party on the Parties' respective initial press releases with respect to the transactions contemplated herein and (b) that no press release or similar public announcement or external communication shall, if prior to, or after, the Effective Time, be made or be caused to be made (including by such Party's Affiliates) concerning the execution or performance of this Agreement until such Party has consulted with the other Party, and provided meaningful opportunity for review and given due consideration to reasonable comment by the other Party, except (x) as may be required by applicable Law, court process or by obligations pursuant to any listing agreement with any national securities exchange or national securities quotation system; (y) for disclosures made that are substantially consistent with disclosure contained in any Distribution Disclosure Document; and (z) as may pertain to disputes between one Party or any member of its Group, on the one hand, and the other Party or any member of its Group, on the other hand; provided that in the case of clause (z), any Party that intends to issue a press release or similar public announcement or external communication regarding such dispute shall provide reasonable advance written notice to the other Party in accordance with Section 12.6, which notice shall include a copy of the press release or similar public announcement or external communication, or where no such copy is available, a description of the press release or similar public announcement or external communication.

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Section 12.23 Tax Treatment of Payments. To the extent permitted by applicable Law, unless otherwise required by a Final Determination, this Agreement or the Tax Matters Agreement or otherwise agreed to among the Parties, for U.S. federal Tax purposes, any payment made pursuant to this Agreement shall be treated as follows:

(a) to the extent the member or assets of the payor Group and the member or assets of the payee Group to which the liability for payment relates were separated in a tax-free contribution or tax-free distribution for U.S. federal Tax purposes, such payment shall be treated as a tax-free contribution or tax-free distribution, as applicable, with respect to the stock of the applicable member of the payee Group or payor Group, occurring immediately prior to the relevant transaction in the Internal Reorganization or the ElectronicsCo Spin Contribution, as applicable;

(b) to the extent the member or assets of the payor Group and the member or assets of the payee Group to which the liability for payment relates were separated in a taxable transaction for U.S. federal Tax purposes, such payment shall be treated as an adjustment to the price or amount, as applicable, of the relevant transaction in the Internal Reorganization or the ElectronicsCo Spin Contribution, as applicable; and

(c) payments of interest shall be treated as deductible by the Indemnifying Party or its relevant Subsidiary and as income to the Indemnitee or its relevant Subsidiary, as applicable.

In the case of each of the foregoing, no Party shall take any position inconsistent with such treatment. In the event that a Taxing Authority asserts that a Party's treatment of a payment pursuant to this Agreement should be other than as set forth in this Section 12.23, such Party shall use its commercially reasonable efforts to contest such challenge.

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

DUPONT DE NEMOURS, INC.

By: /s/ Erik T. Hoover

Name: Erik T. Hoover

Title: Senior Vice President and General Counsel

QNITY ELECTRONICS, INC.

By: /s/ Jon D. Kemp

Name: Jon D. Kemp

Title: Chief Executive Officer

*[Signature Page to the Separation and Distribution Agreement]*

**CERTIFICATE OF DESIGNATION OF  
SERIES A PREFERRED STOCK OF  
QNITY ELECTRONICS, INC.**

Pursuant to Sections 103, 141 and 151 of the  
General Corporation Law of the State of Delaware

Qnity Electronics, Inc., a Delaware corporation (the “Company”), certifies that pursuant to the authority contained in its Amended and Restated Certificate of Incorporation (as amended or restated from time to time, the “Certificate of Incorporation”), and in accordance with the provisions of Sections 103, 141 and 151 of the General Corporation Law of the State of Delaware (the “DGCL”), the Board of Directors of the Company (the “Board of Directors”), on October 15, 2025, duly approved and adopted the following resolution, which resolution remains in full force and effect on the date hereof:

RESOLVED, that pursuant to the authority of the Board of Directors conferred by the Certificate of Incorporation and applicable law, a series of preferred stock of the Company (“Preferred Stock”) be, and hereby is, authorized, designated and created, effective as of 11:59 p.m., New York City Time, on October 31, 2025 (the “Effective Time”), and that the voting powers, designations, preferences and relative, participating, optional and other special rights, and qualifications, limitations and restrictions thereof, of the shares of such series of Preferred Stock, in addition to any provisions set forth in the Certificate of Incorporation that are applicable to such series of Preferred Stock or the Preferred Stock of the Company of all classes and series, are as follows:

Section 1. Designation. The shares of such series of Preferred Stock shall be designated as “Series A Preferred Stock” having a par value of \$1,500,000.00 per share (the “Series A Preferred Stock”), with a liquidation preference amount of \$1,500,000.00 per share (the “Liquidation Preference”). For the avoidance of doubt, the Liquidation Preference shall not be subject to any upward or downward adjustment, except as set forth in Section 14(a). The Series A Preferred Stock shall rank, with respect to payment of dividends and distributions, and the distribution of assets upon the voluntary or involuntary liquidation, winding-up or dissolution (a “Liquidation”) of the Company, (a) senior to the common stock having a par value of \$0.01 per share of the Company (the “Common Stock”), whether now outstanding or hereafter issued, and to each other class or series of stock of the Company (including, without limitation, any class or series of Preferred Stock established after Effective Time by the Board of Directors) the terms of which do not expressly provide that such class or series ranks senior to, or *pari passu* with, the Series A Preferred Stock as to payment of dividends and distributions, and the distribution of assets upon the Liquidation of the Company (collectively, “Junior Stock”); (b) *pari passu* with each other class or series of stock of the Company (including, without limitation, any class or series of Preferred Stock established after the Effective Time by the Board of Directors) the terms of which expressly provide that such class or series ranks *pari passu* with the Series A Preferred Stock as to payment of dividends and distributions, and the distribution of assets upon any Liquidation of the Company (collectively, “Parity Stock”); and (c) junior to each other class or series of stock of the Company (including, without limitation, any class or series of Preferred Stock established after the Effective Time by the Board of Directors) the terms of which expressly provide that such class or series ranks senior to the Series A Preferred Stock as to payment of dividends and distributions, and the distribution of assets upon any Liquidation of the Company (collectively, “Senior Stock”). The Company’s ability to issue Parity Stock and Senior Stock shall be subject to the provisions of Section 5.



Section 2. Number of Shares. The number of authorized shares of Series A Preferred Stock shall be one (1). Such number may, from time to time, be increased (but not in excess of the total number of authorized shares of Preferred Stock) or decreased (but not below the number of shares of Series A Preferred Stock then outstanding) by further resolution duly adopted by the Board of Directors and in a manner permitted by the DGCL and the terms provided herein (including, without limitation, Section 5).

Section 3. Dividends.

(a) Rate. Holders of shares of Series A Preferred Stock shall be entitled to receive cash dividends on the Series A Preferred Stock at a rate per annum of eight percent (8%) (the “Dividend Rate”) per share on the sum of (x) the Liquidation Preference *plus* (y) all accrued and unpaid dividends with respect to such share for all prior Dividend Payment Periods (as defined below). Dividends shall be cumulative and payable quarterly on the fifteenth (15<sup>th</sup>) calendar day (or the following Business Day if the fifteenth (15<sup>th</sup>) calendar day is not a Business Day) of January, April, July and October of each year (commencing on January 15, 2026) (each such date, a “Dividend Payment Date”, and the period from and including the date of the Effective Time to the first Dividend Payment Date and each such quarterly period thereafter beginning on the day after the immediately preceding Dividend Payment Date and ending on and including the immediately following Dividend Payment Date are each referred to herein as a “Dividend Payment Period”); provided that if the declaration and payment of such dividends is not permitted under applicable law because the Company does not have sufficient profits, surplus or other funds legally available for the payment of such dividends, such dividends shall not be required to be declared or be paid or payable on such Dividend Payment Date, and instead, such dividends shall be declared, become payable and be paid on the first succeeding Dividend Payment Date on which the Company is not prohibited under applicable law from declaring and paying such dividends (and, for the avoidance of doubt, such dividends shall be payable in addition to, and not in lieu of, any dividends which would otherwise be payable on such succeeding Dividend Payment Date); provided, further, that accrued and unpaid dividends for any prior quarterly Dividend Payment Period may be paid at any time. Dividends, whether or not declared by the Board of Directors and whether or not there are profits, surplus or other funds of the Company legally available therefor, will accrue at the Dividend Rate on a daily basis from and including the date of the Effective Time and computed on the basis of a 365-day year and the actual number of days elapsed for any Dividend Payment Period.

(b) Payment. The Company shall either pay the dividends payable on each Dividend Payment Date entirely in cash or, if the Company does not pay such dividends entirely in cash on any Dividend Payment Date, then such accrued and unpaid dividends on each share of Series A Preferred Stock shall be accumulated and shall remain as an amount of accrued and unpaid Dividends on such share until paid in cash to the Holder thereof. Dividends shall accumulate whether or not in any Dividend Payment Period there have been profits, surplus or other funds of the Company legally available for the payment of such dividends. If the Company does not pay Dividends accrued during the preceding Dividend Payment Period(s) entirely in

cash on any Dividend Payment Date, then, not less than five (5) days following such Dividend Payment Date, the Company (or its transfer agent) shall provide to the Holders of record as of the applicable Dividend Record Date (as defined below), by first class mail, postage prepaid, and e-mail addressed to the Holders of record at their respective last addresses and e-mails appearing on the stock records, stock ledger or books of the Company, a statement setting forth the aggregate amount of accrued and unpaid dividends for such Dividend Payment Period and all prior Dividend Payment Periods with respect to each share of Series A Preferred Stock. Each dividend paid in cash shall be paid by wire transfer in immediately available funds to the account(s) designated by each Holder in writing given to the Company from time to time.

(c) Record Date. Dividends shall be payable (i) in the case of dividends paid in cash on a Dividend Payment Date, to the Holders of record at the close of business on the last Business Day of the calendar month immediately preceding the month during which the Dividend Payment Date falls, and (ii) in the case of dividends that are initially not paid in cash and instead accumulated and subsequently paid upon a payment date established by the Company for such purpose, to the Holders of record the date that is ten (10) days prior to the applicable payment date of such accumulated and unpaid dividends (each such record date, a "Dividend Record Date"). For clarity, in the case of payments pursuant to Section 4 in connection with a Liquidation, such payments (including, without limitation, in respect of dividends that are initially not paid in cash and instead accumulated) shall be made to Holders in accordance with such section.

(d) Payment Restrictions. No dividends or other distributions (other than a dividend or distribution payable solely in shares of Parity Stock or Junior Stock (in the case of Parity Stock) or Junior Stock (in the case of Junior Stock) and other than cash paid in lieu of fractional shares) may be declared, made or paid, or set apart for payment upon, any Parity Stock or Junior Stock, nor may any Parity Stock or Junior Stock be redeemed, purchased or otherwise acquired for any consideration (or any money paid to or made available for a sinking fund for the redemption of any Parity Stock or Junior Stock) by or on behalf of the Company (except by conversion into or exchange for shares of Parity Stock or Junior Stock (in the case of Parity Stock) or Junior Stock (in the case of Junior Stock)), unless all accrued and unpaid dividends shall have been or contemporaneously are declared and paid, or are declared and a sum of cash sufficient for the payment thereof is set apart in a segregated account for such payment, on all issued and outstanding Series A Preferred Stock and any Parity Stock for all Dividend Payment Periods ending on or prior to the date of such declaration, payment, redemption, purchase or acquisition. Notwithstanding the foregoing, if full cumulative and unpaid dividends have not been paid on the Series A Preferred Stock and any Parity Stock, dividends may be declared and paid on the Series A Preferred Stock and such Parity Stock so long as the dividends are declared and paid pro rata so that the per share amount of dividends declared on the Series A Preferred Stock and such Parity Stock will in all cases bear to each other the same ratio that accrued and unpaid dividends per share on the shares of Series A Preferred Stock and such other Parity Stock bear to each other. Subject to the foregoing, dividends (payable in cash, stock or otherwise) as may be determined by the Board of Directors may be declared and paid on the Common Stock and any Parity Stock or Junior Stock, from time to time out of the funds of the Company legally available therefor, and the Series A Preferred Stock shall not be entitled to participate in any such dividends.

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(e) Payment Default. If at any time the dividends on the shares of Series A Preferred Stock contemplated by this Section 3 shall be in arrears in an amount equal to one (1) quarterly dividend thereon, then during the period from the occurrence of such event until such time as all accrued and unpaid dividends for all previous Dividend Payment Periods and for the current Dividend Payment Period on all shares of Series A Preferred Stock then outstanding shall have been declared and paid or set apart for payment, any dividends otherwise payable on such Dividend Payment Periods on the Series A Preferred Stock shall continue to accrue and cumulate at a rate per annum of the Dividend Rate, *plus* five percent (5%), during such period, payable quarterly in arrears on each Dividend Payment Date.

Section 4. Liquidation Preference. In the event of any Liquidation of the Company, each Holder shall be entitled to receive out of the assets of the Company or proceeds thereof available for distribution to stockholders of the Company (whether capital or surplus), before any distribution of assets is made on the Common Stock or any other Junior Stock, an amount per share of Series A Preferred Stock held by such Holder equal to the sum of (x) the Liquidation Preference *plus* (y) all accrued and unpaid dividends with respect to such share through and including the date of such Liquidation of the Company. If undertaken in compliance with Section 5, none of (i) the sale, conveyance, exchange or transfer (for cash, shares of stock, securities or other consideration) of all or substantially all of the business, property or assets of the Company (other than in connection with the Liquidation of the Company), (ii) the merger, division, conversion or consolidation of the Company into or with any other Person or (iii) the merger, division, conversion or consolidation of any other Person into or with the Company, shall constitute a Liquidation of the Company for the purposes of the immediately preceding sentence.

If the assets of the Company available for distribution to the Holders upon any Liquidation of the Company shall be insufficient to pay in full all amounts to which such Holders are entitled pursuant to this Section 4, no such distribution shall be made on account of any shares of Parity Stock upon such Liquidation unless proportionate distributable amounts shall be paid on account of the shares of Series A Preferred Stock, ratably, in proportion to the full distributable amounts for which such Holders and holders of any Parity Stock are entitled upon such Liquidation, with the amount allocable to each class or series of such stock determined on a pro rata basis of the aggregate liquidation preference of the outstanding shares of each class or series and accrued and unpaid dividends to which each class or series is entitled.

After the payment to the Holders of the full preferential amounts provided for in this Section 4, such Holders shall have no right or claim in their capacity as Holders to any of the remaining assets of the Company. The Holders shall not be entitled to any further payments in their capacity as Holders in the event of any Liquidation other than what is expressly provided for in this Section 4.

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Section 5. Voting Rights.

(a) Holders of shares of Series A Preferred Stock will not have any voting rights, except for (i) the voting rights, if any, required by law or the Certificate of Incorporation, including the right to vote, together with the common stock of the Company as a single class, on the removal or election of any directors of the Board of Directors for which each outstanding share of Series A Preferred Stock will be entitled to one (1) vote, and (ii) the voting rights described in this Section 5. So long as any shares of Series A Preferred Stock are outstanding, in addition to clause (i) of the immediately preceding sentence, the prior express and unanimous affirmative vote or written consent of all of the Holders, voting or consenting separately as a single class, shall be required to:

(i) amend, alter, change, modify, supplement, repeal or adopt any provision of this Certificate of Designation, directly or indirectly (including, without limitation, through any merger, combination, consolidation, tender offer, scheme of arrangement, sale, disposition, divestiture, acquisition, purchase, settlement, exchange (including, without limitation, any exchange for securities or other obligations or instruments (including, without limitation, equity-linked, derivative, synthetic or otherwise)), conversion (statutory or otherwise), swap, transfer, assignment, delegation, issuance, dividend, continuance, reclassification, stock split, recapitalization, reorganization, dissolution, termination, restructuring, joint venture, strategic partnership, migration, change in jurisdiction, division (statutory or otherwise), demerger, spin-off, split-off, separation, dividend, distribution, rights offering, or other corporate action or event, including, without limitation, in a single transaction or a series of related transactions (each, a "Corporate Event"));

(ii) amend, alter, change, modify, supplement or repeal, or adopt any provision of the Certificate of Incorporation (including, without limitation, any certificate of designation relating to any series of Preferred Stock) or the Bylaws of the Company (as amended or restated from time to time, the "Bylaws") inconsistent with, directly or indirectly (including, without limitation, through any Corporate Event that would result in such amendment, alteration, change, modification, supplement, repeal or adoption), the following sections or articles of the Certificate of Incorporation: Section (A) or Section (B) of Article III, Article IV, Section (A) or Section (B) of Article V, Article VIII, Article IX or Article X; or Section 7.2 of the Bylaws; other than, in each case, any such amendment, alteration, change, modification, supplement, repeal or adoption effective prior to 12:03 a.m., New York City Time, on November 1, 2025 (the "Distribution Effective Time");

(iii) amend, alter, change, modify, supplement, repeal or adopt any provision of the Certificate of Incorporation or the Bylaws, directly or indirectly (including, without limitation, through any Corporate Event that would result in such amendment, alteration, change, modification, supplement, repeal or adoption), in a manner that circumvents, revokes, impairs, negates, supersedes, prohibits, restricts, diminishes, hinders, prevents, interferes with or otherwise adversely affects any of the powers, designations, preferences, privileges, protections or rights of the Holders of shares of Series of Series A Preferred Stock;

(iv) amend, alter, change, modify, supplement, repeal or adopt any provision of the Certificate of Incorporation, directly or indirectly (including, without limitation, through any Corporate Event that would result in such amendment, alteration, change, modification, supplement, repeal or adoption), or take or attempt to take any action, enter into any agreement, contract or other arrangement, or consummate any transaction (including, without limitation, any financing transaction or other Corporate Event), after the Distribution Effective Time, in a manner that results in shares of the Series A Preferred Stock no longer being outstanding or no longer being held (either beneficially or of record) by the Trust (as defined below);

(v) issue or increase the authorized amount of shares of Series A Preferred Stock, or authorize, create, issue or enter into any obligation, instrument or security (including, without limitation, equity-linked, derivative, synthetic or otherwise) convertible into, exercisable or exchangeable for, or evidencing a right to purchase or acquire, any shares of Series A Preferred Stock, other than the initial issuance of one (1) share of Series A Preferred Stock to DuPont de Nemours, Inc. ("DuPont") following the Effective Time but before the Distribution Effective Time, and immediately thereafter but before the Distribution Effective Time, the contribution of such one (1) share of Series A Preferred Stock from DuPont to the Trust;

(vi) authorize, create, designate or issue any series or class of securities of the Company, including, without limitation, any series or class of other Preferred Stock or debt security, that has powers, designations, preferences, privileges, protections or rights that circumvent, revoke, impair, negate, supersede, prohibit, restrict, diminish, hinder, prevent, interfere with or otherwise adversely affect any of the powers, designations, preferences, privileges, protections or rights of the Series A Preferred Stock;

(vii) reclassify, alter or amend any existing Parity Stock or Junior Stock if such reclassification, alteration or amendment would result in such Parity Stock or Junior Stock becoming Senior Stock or Parity Stock, respectively;

(viii) amend, alter, change, modify, supplement, repeal or adopt any provision of the Certificate of Incorporation, directly or indirectly (including, without limitation, through any Corporate Event that would result in such amendment, alteration, change, modification, supplement, repeal or adoption), in a manner that results in the Company being incorporated or formed under the laws of any jurisdiction other than the State of Delaware;

(ix) convert the Company into, or causing its legal form, jurisdiction or existence to be, any other type of entity, including, without limitation, a partnership, limited partnership, limited liability partnership, limited liability limited partnership, general partnership, non-profit corporation, public benefit corporation, statutory trust or limited liability company, other than a Delaware for-profit corporation; or

(x) take or attempt to take any action, enter into any agreement, contract or other arrangement, or consummate any transaction (including, without limitation, any financing transaction or other Corporate Event), after the Effective Time, that circumvents, revokes, impairs, negates, supersedes, prohibits, restricts, diminishes, hinders, prevents, interferes with or otherwise adversely affects any of the powers, designations, preferences, privileges, protections or rights of the Series A Preferred Stock; provided that, in the case of a Corporate Event that results in the direct or indirect assignment, assumption, allocation, delegation or transfer, in whole or in part, whether voluntarily, involuntarily, by operation of law or otherwise, of any agreement, contract or other arrangement between the Company and DuPont that assigns or allocates (whether as a legal or economic matter) Percentage Based Liabilities (as defined in the Certificate of Incorporation) between the Company and DuPont, and/or their

respective subsidiaries, to a Person other than the Company, if (A) such assignee, recipient, delegatee or transferee of such agreement, contract or other arrangement (1) issues to the Holders a class or series of preference securities of such assignee, recipient, delegatee or transferee that has powers, designations, preferences, privileges, protections and rights that are identical to those of the Series A Preferred Stock set forth in this Certificate of Designation and the Certificate of Incorporation (including, for the avoidance of doubt, Section (A) and Section (B) of Article III, Article IV, Section (A) and Section (B) of Article V, Article VIII, Article IX and Article X of the Certificate of Incorporation), (2) includes such identical powers, designations, preferences, privileges, protections and rights (including the validity, enforceability, legality and effectiveness of such powers, designations, preferences, privileges, protections and rights) are set forth in the organizational and governing documents (including, without limitation, the certificate of incorporation and certificate of designation, if a corporation, or the equivalent organizational and governing documents of any other type of entity) of such assignee, recipient, delegatee or transferee, in form and substance satisfactory to the Holders of shares of the Series A Preferred Stock, and (3) irrevocably grants, on behalf of itself and its subsidiaries (and its and their past, present and future affiliates), DuPont a power of attorney, coupled with an interest, identical to the Power of Attorney (as defined in the Certificate of Incorporation), and (B) the Company (and its ultimate parent entity immediately following the consummation of such Corporate Event) provides a legally binding, absolute, irrevocable and unconditional guarantee of the obligations of such assignee, recipient, delegatee or transferee set forth in clause (A) of this Section 5(a)(x), in form and substance satisfactory to the Holders of shares of the Series A Preferred Stock, then such Corporate Event shall not be deemed to circumvent, revoke, impair, negate, supersede, prohibit, restrict, diminish, hinder, prevent, interfere with or otherwise adversely affect any of the powers, designations, preferences, privileges, protections or rights of the Series A Preferred Stock.

Pursuant to this Certificate of Designation and the Certificate of Incorporation, each Holder of shares of Series A Preferred Stock may vote, withhold its vote, condition or refuse to vote, such shares, in each case, in its sole and absolute discretion, and each such Holder shall not have any duty (fiduciary or otherwise) to the Company or the other stockholders of the Company in making such determination or in making any other determination in his, her or its capacity as a Holder.

The Company shall (i) not, and shall cause its subsidiaries (including its and their past, current or future affiliates) not to, take any action, directly or indirectly (including, without limitation, through any Corporate Event) to circumvent, avoid or seek to circumvent or avoid the compliance, observance or performance of any of the terms of this Certificate of Designation and the Certificate of Incorporation (including, for the avoidance of doubt, Section (A) and Section (B) of Article III, Article IV, Section (A) and Section (B) of Article V, Article VIII, Article IX and Article X of the Certificate of Incorporation), and (ii) at all times in good faith carry out all of the provisions of this Certificate of Designation and the Certificate of Incorporation (including, for the avoidance of doubt, Section (A) and Section (B) of Article III, Article IV, Section (A) and Section (B) of Article V, Article VIII, Article IX and Article X of the Certificate of Incorporation) and take all action as may be required to protect any and all of the powers, designations, preferences, privileges, protections or rights of the Series A Preferred Stock.

(b) Any amendment, alteration, change, modification, supplement, repeal or adoption of any provision of this Certificate of Designation or the Certificate of Incorporation, directly or indirectly (including, without limitation, through any Corporate Event), or any other action, or attempt thereof, in each case requiring the prior affirmative and unanimous vote or written consent of all of the Holders pursuant to this Section 5, and any documentation thereof or related thereto, without the vote or written consent required under this Section 5, shall be expressly *ultra vires*, null and void *ab initio* and of no force or effect.

(c) Each Holder of shares of Series A Preferred Stock shall have one (1) vote per share of Series A Preferred Stock on any matter on which Holders of shares of Series A Preferred Stock are entitled to vote, whether separately or together with any other series or class of stock of the Company pursuant to applicable law or otherwise, including any action taken by written consent.

Section 6. Certain Corporate Events. Subject to Section 5, in the event the Company enters into, is a party to or is otherwise involved in, directly or indirectly, a Corporate Event that results in the direct or indirect assignment, assumption, allocation, delegation or transfer, in whole or in part, whether voluntarily, involuntarily, by operation of law or otherwise, of any agreement, contract or other arrangement between the Company and DuPont that assigns or allocates (whether as a legal or economic matter) Percentage Based Liabilities (as defined in the Certificate of Incorporation) between the Company and DuPont, and/or their respective subsidiaries, to a Person other than the Company, (a) the Company shall cause such assignee, recipient, delegatee or transferee of such agreement, contract or other arrangement (i) to issue to the Holders a class or series of preference securities of such assignee, recipient, delegatee or transferee that has the powers, designations, preferences, privileges, protections and rights that are identical to those of the Series A Preferred Stock set forth in this Certificate of Designation and the Certificate of Incorporation (including, for the avoidance of doubt, Section (A) and Section (B) of Article III, Article IV, Section (A) and Section (B) of Article V, Article VIII, Article IX and Article X of the Certificate of Incorporation), (ii) to include such identical powers, designations, preferences, privileges, protections and rights (including the validity, enforceability, legality and effectiveness of such powers, designations, preferences, privileges, protections and rights) in the organizational and governing documents (including, without limitation, the certificate of incorporation and certificate of designation, if a corporation, or the equivalent organizational and governing documents of any other type of entity) of such assignee, recipient, delegatee or transferee, in form and substance satisfactory to the Holders of shares of the Series A Preferred Stock, and (iii) to irrevocably grant, on behalf of itself and its subsidiaries (and its and their past, present and future affiliates), DuPont a power of attorney, coupled with an interest, identical to the Power of Attorney (as defined in the Certificate of Incorporation), and (b) the Company (and its ultimate parent entity immediately following the consummation of such Corporate Event) shall provide a legally binding, absolute, irrevocable and unconditional guarantee of the obligations of such assignee, recipient, delegatee or transferee set forth in clause (a) of this Section 6, in form and substance satisfactory to the Holders of shares of the Series A Preferred Stock. Unless such conditions set forth in clauses (a) and (b) of this Section 6 are satisfied, any such Corporate Event, or attempt thereof, and any documentation thereof or related thereto, shall be expressly *ultra vires*, null and void *ab initio* and of no force or effect.

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Section 7. Action by Written Consent. Any action required or permitted to be taken by the Holders of shares of Series A Preferred Stock may be taken without a meeting if all Holders of shares of Series A Preferred Stock consent to the action in writing, without prior notice. Such action by written consent shall be treated for all purposes as a vote taken at a meeting of Holders of shares of Series A Preferred Stock.

Section 8. Notice. Written notice of any event or action that could require a vote of the Holders of shares of Series A Preferred Stock under Section 5 shall be provided to all of the Holders of shares of Series A Preferred Stock and DuPont and at least sixty (60) days in advance of (x) any such event or such action being taken or (y) any stockholders' meeting being called, or any vote or consent being solicited from the stockholders of the Company, to approve, adopt or otherwise vote in any manner on any such event or action. In the event of a Liquidation, the Company shall, no later than two (2) days prior to the date the Board of Directors approves such action, or no later than five (5) days prior to any stockholders' meeting called, or any vote or consent being solicited from the stockholders of the Company, to approve, adopt or otherwise vote in any manner on such action, or within five (5) days of the commencement of any involuntary proceeding, whichever is earlier, provide each Holder of shares of Series A Preferred Stock and DuPont written notice of the proposed action. Each such written notice shall describe in reasonable detail the terms and conditions of such proposed event or action, including a description of the structure and timing of the proposed event or action, and any stock, cash or property to be received by the Holders of shares of Series A Preferred Stock upon the consummation of the proposed event or action, and the date of delivery thereof. If any change in the facts set forth in the initial notice shall occur, the Company shall promptly give written notice to each Holder of shares of Series A Preferred Stock of such change. The Company shall also provide to all of the Holders of shares of Series A Preferred Stock and DuPont a copy of any notice of stockholders' meeting and of any consent solicitation or proxy solicitation provided to the holders of any other series or class of capital stock of the Company substantially concurrently as such notice or solicitation provided to holders of such other series or class of capital stock of Company.

Section 9. Preemption and Conversion. Holders of shares of Series A Preferred Stock are not entitled to any preemptive, conversion or subscription rights in respect of any shares of capital stock or other securities of the Company.

Section 10. Maturity. The shares of Series A Preferred Stock shall be perpetual and shall not mature.

Section 11. Redemption. The Company may not, at any time or under any circumstances, redeem any outstanding shares of Series A Preferred Stock.



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Section 12. Ownership.

(a) Certificates. Shares of Series A Preferred Stock may be certificated or uncertificated in accordance with the DGCL. To the extent any certificates are issued with respect to any shares of Series A Preferred Stock, every Holder represented by certificates shall be entitled to have a certificate, in such form as may be prescribed by law and the Board of Directors, signed in the name of the Company by the Chairman of the Board of Directors or the Chief Executive Officer or a President or a Vice President, and by the Treasurer or an Assistant Treasurer or the Secretary or an Assistant Secretary of the Company, representing the number of shares registered in certificate form held by such Holder. Any or all the signatures on a certificate may be a facsimile. In case any officer, transfer agent or registrar who has signed or whose facsimile signature has been placed upon a certificate shall have ceased to be such officer, transfer agent or registrar before such certificate is issued, it may be issued by the Company with the same effect as if such Person were such officer, transfer agent or registrar at the date of issue.

(b) Record Ownership. A record of the name, address and e-mail of each Holder, each certificate (if applicable) held by such Holder, the number of shares represented thereby (if certificated) or owned by such Holder, and the dates of issue thereof shall be made on the Company's books. The initial Holder of record of all of the issued and outstanding one (1) share of the Series A Preferred Stock was DuPont de Nemours, Inc., which transferred all of its shares of Series A Preferred Stock (immediately following the issuance thereof) to the Novus 2025 Trust (the "Trust"). The Company shall be entitled to treat the Holder of record of any share of Series A Preferred Stock as the Holder in fact thereof, and accordingly shall not be bound to recognize any equitable or other claim to or interest in any share on the part of any other Person, whether or not it shall have express or other notice thereof, except as required by the laws of the State of Delaware. If certificated, the certificates of the Series A Preferred Stock shall be numbered consecutively.

(c) Transfer of Ownership. The shares of Series A Preferred Stock have not been registered under the Securities Act or any other applicable securities laws and may not be offered or sold except in compliance with the registration requirements of the Securities Act and any other applicable securities laws, or pursuant to an exemption from registration under the Securities Act and any other applicable securities laws, or in a transaction not subject to such laws. Subject to applicable laws, transfers of shares of Series A Preferred Stock shall be made on the books of the Company only by direction of the registered Holder thereof, lawfully constituted in writing, and, if such shares are represented by a certificate, only upon the surrender to the Company or its transfer agent or other designated agent of the certificate representing such shares properly endorsed or accompanied by a properly executed written assignment of the shares evidenced thereby, which certificate shall be canceled before a new certificate or uncertificated shares are issued.

(d) Lost Certificates. If any of the Series A Preferred Stock certificates shall be mutilated, lost, stolen or destroyed, the Company shall issue, in exchange and in substitution for and upon cancellation of the mutilated Series A Preferred Stock certificate, or in lieu of and substitution for the Series A Preferred Stock certificate lost, stolen or destroyed, a new Series A Preferred Stock certificate of like tenor and representing an equivalent amount of shares of Series A Preferred Stock, but only upon receipt of an affidavit as to such Holder's ownership of the certificate and of the facts which go to prove its mutilation, loss, theft or destruction

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Section 13. Definitions. As used herein, the following terms shall have the following respective meanings; provided, that any capitalized term used but not defined herein shall have the meaning ascribed to such term in the Certificate of Incorporation:

- (a) “Business Day” means any day that is not a Saturday, a Sunday or any other day on which banks are required or authorized by law to be closed in The City of New York.
- (b) “Exchange Act” means the Securities Exchange Act of 1934, as amended.
- (c) “Holder” means a holder of shares of Series A Preferred Stock.
- (d) “Person” means any individual, firm, corporation, partnership, limited liability company, trust, joint venture, governmental entity or other entity.
- (e) “Securities Act” means the Securities Act of 1933, as amended.

Section 14. Miscellaneous.

- (a) The amounts to be paid or set aside for payment as provided for in Section 3 and Section 4 shall be proportionately increased or decreased in inverse relation to the change in the number of outstanding shares of Series A Preferred Stock resulting from any stock dividend, stock split, reverse stock split, stock consolidation, subdivision, reclassification, reorganization, recapitalization, combination or other similar event involving a change in the capital structure of the Series A Preferred Stock. For the avoidance of doubt, any such events shall be subject to any vote required under Section 5.
- (b) Subject to applicable escheat laws, any monies set aside by the Company in respect of any payment with respect to shares of the Series A Preferred Stock, or dividends thereon, and unclaimed at the end of two (2) years from the date upon which such payment is due and payable shall revert to the general funds of the Company, after which reversion the Holders of such shares shall look only to the general funds of the Company for the payment thereof. Any interest accrued on funds so deposited shall be paid to the Company from time to time.
- (c) Except as may otherwise be required by law, the shares of Series A Preferred Stock shall not have any voting powers, designations, preferences or relative, participating, optional or other special rights, or qualifications, limitations or restrictions thereof, other than those specifically set forth in this Certificate of Designation.
- (d) The headings of the various subdivisions hereof are for convenience of reference only and shall not affect the interpretation of any of the provisions hereof.
- (e) If any of the voting powers, designations, preferences or relative, participating, optional or other special rights of the Series A Preferred Stock, or qualifications, limitations or restrictions thereof set forth herein, is invalid, unlawful or incapable of being enforced by reason of any rule of law or public policy, all other voting powers, designations, preferences and relative, participating, optional and other special rights of Series A Preferred

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Stock, and qualifications, limitations and restrictions thereof set forth herein, which can be given effect without the invalid, unlawful or unenforceable voting powers, designations, preferences and relative, participating, optional and other special rights of Series A Preferred Stock, and qualifications, limitations and restrictions thereof, shall, nevertheless, remain in full force and effect, and no voting powers, designations, preferences or relative, participating, optional or other special rights of Series A Preferred Stock, and qualifications, limitations and restrictions thereof set forth herein, shall be deemed dependent upon any other such voting powers, designations, preferences and relative, participating, optional and other special rights of Series A Preferred Stock, and qualifications, limitations and restrictions thereof, unless so expressed herein.

(f) Any waiver by a Holder of a breach of any provision of this Certificate of Designation (or any related provision of the Certificate of Incorporation) shall not operate as or be construed to be a waiver of any other breach of such provision or of any breach of any other provision of this Certificate of Designation or the Certificate of Incorporation or a waiver by any other Holders. The failure of a Holder to insist upon strict adherence to any term of this Certificate of Designation (or any related term under the Certificate of Incorporation) on one or more occasions shall not be considered a waiver or deprive that party (or any other Holder) of the right thereafter to insist upon strict adherence to that term or any other term of this Certificate of Designation or the Certificate of Incorporation on any other occasion.

(g) Whenever possible, each provision hereof shall be interpreted in a manner as to be effective and valid under applicable law, but if any provision hereof is held to be prohibited by or invalid under applicable law, such provision shall be ineffective only to the extent of such prohibition or invalidity, without invalidating or otherwise adversely affecting the remaining provisions hereof. If a court of competent jurisdiction should determine that a provision hereof would be valid or enforceable if a period of time were extended or shortened or a particular percentage were increased or decreased, then such court may make such change as shall be necessary to render the provision in question effective and valid under applicable law. Any principles under applicable law requiring the construction of ambiguity against (i) the creation or expansion of preferential rights or (ii) the Person who has drafted the applicable provision shall not apply to any provision of this Certificate of Designation (or any related provision of the Certificate of Incorporation).

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IN WITNESS WHEREOF, the Company has caused this Certificate of Designation to be duly executed this 31<sup>st</sup> day of October, 2025.

QNITY ELECTRONICS, INC.

By: /s/ Jon D. Kemp  
Name: Jon D. Kemp  
Title: Chief Executive Officer

*[Signature Page to Series A Preferred Stock Certificate of Designation]*

**AMENDED AND RESTATED CERTIFICATE OF INCORPORATION  
OF  
QNTITY ELECTRONICS, INC.**

Qnity Electronics, Inc. (the “Company”), a corporation organized and existing under the laws of the State of Delaware, does hereby certify as follows:

FIRST: The original Certificate of Incorporation of the Company was filed with the Secretary of State of the State of Delaware on December 6, 2024 under the name Novus SpinCo 1, Inc.

SECOND: The Amended and Restated Certificate of Incorporation of the Company was filed with the Secretary of State of the State of Delaware on October 13, 2025 under the name Qnity Electronics, Inc. (the “First Amended and Restated Certificate of Incorporation”).

THIRD: This Amended and Restated Certificate of Incorporation (this “Certificate of Incorporation”) has been duly adopted by the Company in accordance with the provisions of Sections 242 and 245 of the General Corporation Law of the State of Delaware (as it now exists or hereafter may be amended, the “DGCL”) and has been approved by the requisite vote of the stockholders of the Company in accordance with the provisions of Section 228 of the DGCL.

FOURTH: This Certificate of Incorporation shall become effective at 12:00 a.m., New York City Time, on November 1, 2025.

FIFTH: The text of the First Amended and Restated Certificate of Incorporation of the Company is hereby amended and restated to read in its entirety as follows:

**ARTICLE I  
NAME**

The name of the Company is Qnity Electronics, Inc.

**ARTICLE II  
REGISTERED OFFICE AND AGENT**

The address of the registered office of the Company in the State of Delaware is Corporation Trust Center, 1209 Orange Street, in the City of Wilmington, County of New Castle 19801. The name of its registered agent at that address is The Corporation Trust Company.

**ARTICLE III  
PURPOSE AND POWERS**

(A) Subject to Section (B) of this Article III, the purpose of the Company is to engage in any lawful act or activity for which a corporation may now or hereafter be organized under the DGCL. Subject to Section (B) of this Article III, the Company shall have all powers that may now or hereafter be lawful for a corporation to exercise under the DGCL.

(B) Notwithstanding anything to the contrary in Section (A) of this Article III or otherwise in this Certificate of Incorporation, in no event shall the Company or the Board of Directors of the Company (the "Board of Directors") have the power to take, attempt to take, or take any action, directly or indirectly, to challenge, breach, question, dispute, undermine, diminish, revoke, circumvent, impair, negate, supersede, prohibit, restrict, hinder, prevent, interfere with or otherwise contravene (including as to the validity, enforceability, legality, existence or effectiveness of any person or its status as a stockholder (including the holder of any shares of Series A Preferred Stock (as defined below)), any such stockholder's ownership of any capital stock of the Company, any purpose, governing agreement or organizational document of such stockholder, or any action taken or not taken by such stockholder pursuant thereto related to) (1) the rights of DuPont de Nemours, Inc., a Delaware corporation (including any successor thereto, "DuPont"), or any holder of any shares of Series A Preferred Stock, or (2) the obligations of the Company, in each case and as applicable, as set forth in (i) that certain Power of Attorney, dated as of October 30, 2025, executed by the Company on behalf of itself and its subsidiaries (and its and their past, present and future affiliates), attached as Exhibit A hereto (the "Power of Attorney"), (ii) the Series A Preferred Stock Certificate of Designation (as defined below), (iii) Section (A) or Section (B) of this Article III, (iv) Article IV, (v) Section (A) or Section (B) of Article V, (vi) Article VIII, (vii) Article IX or (viii) Article X. Written notice of any event or action that could be deemed to challenge, breach, question dispute, undermine, diminish, revoke, circumvent, impair, negate, supersede, prohibit, restrict, hinder, prevent, interfere with or otherwise contravene such rights or obligations shall be provided to all of the holders of shares of Series A Preferred Stock and DuPont at least sixty (60) days in advance of (i) any such event or such action being taken or (ii) any stockholders' meeting being called, or any vote or consent being solicited from the stockholders of the Company, to approve, adopt or otherwise vote in any manner on any such event or action. Any event or action taken in violation of such notice requirement, and any documentation thereof or related thereto, shall be expressly *ultra vires*, null and void *ab initio* and of no force or effect.

#### **ARTICLE IV** **CAPITAL STOCK**

(A) Classes of Stock. The total number of shares of stock of all classes of capital stock that the Company is authorized to issue is 1,916,666,667 shares. The authorized capital stock is divided into (x) 1,666,666,667 shares of common stock, having a par value of \$0.01 per share (the "Common Stock"), and (y) 250,000,000 shares of preferred stock, (i) 249,999,999 of which having a par value of \$0.01 per share, and (ii) one (1) share of which having a par value of \$1,500,000.00 per share and having been designated as Series A Preferred Stock (the "Series A Preferred Stock") pursuant to that Certificate of Designation, attached as Exhibit B hereto (as the same may be amended or restated from time to time in accordance with the terms thereof, the "Series A Preferred Stock Certificate of Designation"), and the terms of which are hereby incorporated herein by reference.

(B) Preferred Stock.

1. Shares of Preferred Stock of the Company may be issued from time to time in one or more series, the shares of each series to have such voting powers, full or limited, if any, and such designations, preferences and relative, participating, optional or other special rights, and qualifications, limitations or restrictions thereof, as are stated and expressed herein or in the resolution or resolutions providing for the issue of such series, adopted by the Board of Directors as hereinafter provided.

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2. Authority is hereby expressly granted to the Board of Directors, subject to the provisions of this Article IV, the Series A Preferred Stock Certificate of Designation and to the limitations prescribed by the DGCL, to authorize by resolution or resolutions from time to time the issuance of one or more series of Preferred Stock out of the authorized but unissued shares of Preferred Stock and with respect to each such series to fix, by filing a certificate of designation pursuant to the DGCL setting forth such resolution or resolutions and providing for the issuance of such series, the voting powers, full or limited, if any, of the shares of such series and the designations, preferences and relative, participating, optional or other special rights, and qualifications, limitations or restrictions thereof. The authority of the Board of Directors with respect to each series shall include, without limitation, the determination or fixing of the following:

- (i) the designation of such series;
- (ii) the number of shares of such series, which number the Board of Directors may thereafter (except where otherwise provided in the certificate of designation for such series) increase or decrease (but not below the number of shares of such series then outstanding);
- (iii) the dividend rate, if any, payable to holders of shares of such series, any conditions and dates upon which such dividends shall be payable, the relation which such dividends shall bear to the dividends payable on any other class or classes of stock or any other series of any class of stock of the Company, and whether such dividends shall be cumulative or non-cumulative;
- (iv) whether the shares of such series shall be subject to redemption by the Company, in whole or in part, at the option of the Company or of the holder thereof, and, if made subject to such redemption, the times, prices, form of payment and other terms and conditions of such redemption;
- (v) the terms and amount of any sinking fund provided for the purchase or redemption of the shares of such series;
- (vi) whether or not the shares of such series shall be convertible into or exchangeable for shares of any other class or classes of any stock or any other series of any class of stock of the Company or any other security, and, if provision is made for conversion or exchange, the times, prices, rates, adjustments and other terms and conditions of such conversion or exchanges;
- (vii) the extent, if any, to which the holders of shares of such series shall be entitled to vote generally, with respect to the election of directors, upon specified events or otherwise;
- (viii) the restrictions, if any, on the issue or reissue of any additional Preferred Stock; and

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(ix) the rights and preferences of the holders of the shares of such series upon any voluntary or involuntary liquidation or dissolution of, or upon the distribution of assets of, the Company.

3. Without limiting the generality of the foregoing, the resolutions providing for issuance of any series of Preferred Stock may provide that such series shall be superior to, rank equally with or be junior to any other series of Preferred Stock to the extent permitted by law and the terms of any other series of Preferred Stock (including, for the avoidance of doubt, those set forth in the Series A Preferred Stock Certificate of Designation).

4. Notwithstanding anything in this Certificate of Incorporation to the contrary, the Company shall disregard any vote, consent or waiver purported to be submitted by any holder of Series A Preferred Stock to the extent that such vote, consent or waiver violates or is inconsistent with any purpose, governing agreement or organizational document of such holder.

(C) Common Stock. All shares of Common Stock of the Company shall be of one and the same class, shall be identical in all respects and shall have equal rights, powers and privileges. Except as otherwise provided for by resolution or resolutions of the Board of Directors pursuant to this Article IV with respect to the issuance of any series of Preferred Stock, the terms of any series of Preferred Stock (including, for the avoidance of doubt, those set forth in the Series A Preferred Stock Certificate of Designation) or the DGCL, the holders of outstanding shares of Common Stock shall have the exclusive right to vote on all matters requiring stockholder action. On each matter on which holders of Common Stock are entitled to vote, each outstanding share of such Common Stock will be entitled to one vote. Subject to the rights of holders of any series of outstanding Preferred Stock (including, for the avoidance of doubt, those set forth in the Series A Preferred Stock Certificate of Designation), holders of shares of Common Stock shall have equal rights of participation in the dividends and other distributions in cash, stock or property of the Company when, as and if declared thereon by the Board of Directors from time to time out of assets or funds of the Company legally available therefor and shall have equal rights to receive the assets and funds of the Company available for distribution to stockholders in the event of any liquidation, dissolution or winding up of the affairs of the Company, whether voluntary or involuntary.

## **ARTICLE V**

### **BOARD OF DIRECTORS**

(A) Power of the Board of Directors. Subject to Section (B) of this Article V, the business and affairs of the Company shall be managed by or under the direction of the Board of Directors. In furtherance, and not in limitation, of the powers conferred by the laws of the State of Delaware, but in each case subject to Section (B) of this Article V, the Board of Directors shall be expressly authorized to:

1. determine the rights, powers, duties, rules and procedures that affect the power of the Board of Directors to manage and direct the business and affairs of the Company;



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2. establish one or more committees of the Board of Directors, by the affirmative vote of a majority of the entire Board of Directors, to which may be delegated any or all of the powers and duties of the Board of Directors to the fullest extent permitted by law; and

3. exercise all such powers and do all such acts as may be exercised by the Company, subject to the provisions of the laws of the State of Delaware, this Certificate of Incorporation and the Amended and Restated Bylaws of the Company (as the same may be amended and/or restated from time to time, the “Bylaws”).

(B) Limitations. Notwithstanding anything to the contrary in Section (A) of this Article V or otherwise in this Certificate of Incorporation, in no event shall the Company or the Board of Directors have the power to take, attempt to take, or take any action, directly or indirectly, to challenge, breach, question, dispute, undermine, diminish, revoke, circumvent, impair, negate, supersede, prohibit, restrict, hinder, prevent, interfere with or otherwise contravene (including as to the validity, enforceability, legality, existence or effectiveness of any person or its status as a stockholder (including the holder of any shares of Series A Preferred Stock (as defined below)), any such stockholder’s ownership of any capital stock of the Company, any purpose, governing agreement or organizational document of such stockholder, or any action taken or not taken by such stockholder pursuant thereto related to) (1) the rights of DuPont or any holder of any shares of Series A Preferred Stock, or (2) the obligations of the Company, in each case and as applicable, as set forth in (i) the Power of Attorney, (ii) the Series A Preferred Stock Certificate of Designation, (iii) Section (A) or Section (B) of Article III, (iv) Article IV, (v) Section (A) or Section (B) of this Article V, (vi) Article VIII, (vii) Article IX or (viii) Article X. Written notice of any event or action that could be deemed to challenge, breach, question dispute, undermine, diminish, revoke, circumvent, impair, negate, supersede, prohibit, restrict, hinder, prevent, interfere with or otherwise contravene such rights or obligations shall be provided to all of the holders of shares of Series A Preferred Stock and DuPont at least sixty (60) days in advance of (i) any such event or such action being taken or (ii) any stockholders’ meeting being called, or any vote or consent being solicited from the stockholders of the Company, to approve, adopt or otherwise vote in any manner on any such event or action. Any event or action taken in violation of such notice requirement, and any documentation thereof or related thereto, shall be expressly *ultra vires*, null and void *ab initio* and of no force or effect.

(C) Number of Directors. The number of directors constituting the entire Board of Directors shall be fixed from time to time exclusively by a vote of a majority of the entire Board of Directors in the manner provided in the Bylaws. As used in this Certificate of Incorporation, the term “entire Board of Directors” means the total authorized number of directors that the Company would have if there were no vacancies.

(D) Classified Board. Except for those directors, if any, elected by the holders of any series of Preferred Stock, the Board of Directors shall be classified initially into three classes: Class I, Class II and Class III. Each class shall consist, as nearly as possible, of one-third of the total number of directors constituting the entire Board of Directors and the allocation of directors among the three classes shall be determined by the Board of Directors.

(E) Term. Except for the terms of such additional directors, if any, elected by the holders of any series of Preferred Stock, the initial Class I directors shall serve for a term expiring at the 2026 annual meeting of stockholders, at which meeting the Class I directors shall be elected to a term expiring at the 2028 annual meeting of stockholders; the initial Class II directors shall serve for a term expiring at the 2027 annual meeting of stockholders, at which meeting the Class II directors shall be elected to a term expiring at the 2028 annual meeting of stockholders; and the initial Class III directors shall serve for a term expiring at the 2028 annual meeting of stockholders. Each director in each class shall hold office until his or her successor is duly elected and qualified or until his or her earlier death, resignation, disqualification or removal. If the number of directors is changed, any increase or decrease shall be apportioned among the classes so as to maintain the number of directors in each class nearly equal as possible. From and including the 2028 annual meeting of stockholders, the Board of Directors shall no longer be classified, and each director shall be elected to serve a term expiring at the next annual meeting of stockholders following the director's election. Notwithstanding the expiration of the term of a director, the director shall continue to hold office until a successor shall be elected and qualified or until his or her earlier death, resignation, disqualification or removal.

(F) Vacancies. Except as otherwise required by law and subject to the rights of the holders of any class or series of Preferred Stock to elect directors, any vacancies on the Board of Directors for any reason, including from the death, resignation, disqualification or removal of any director, and any newly created directorships resulting by reason of any increase in the number of directors shall be filled exclusively by the Board of Directors, acting by the affirmative vote of a majority of the remaining directors then in office, even if less than a quorum, or by a sole remaining director, and shall not be filled by stockholders. Any directors elected to fill a vacancy shall hold office for the remainder of the full term of the class of directors in which the vacancy has occurred and until his or her successor is duly elected and qualified or until his or her earlier death, resignation, disqualification or removal.

(G) Removal of Directors. Except as otherwise required by law and subject to the rights of the holders of any class or series of Preferred Stock, (x) until the 2028 annual meeting of stockholders, any director, or the entire Board of Directors, may be removed from office only for cause and (y) from and including the 2028 annual meeting of stockholders, any director or the entire Board of Directors may be removed from office with or without cause, in each case (clauses (x) and (y)) only by the affirmative vote of the holders of a majority of the voting power of all of the shares of capital stock of the Company then entitled to vote generally in the election of directors, voting as a single class.

## **ARTICLE VI**

### **LIMITATION OF LIABILITY AND INDEMNIFICATION**

(A) Limitation of Liability of Directors and Officers. A director or officer of the Company shall not be personally liable to the Company or its stockholders for monetary damages for breach of fiduciary duty as a director or officer to the fullest extent permitted by the DGCL. No amendment, repeal or modification of this Article VI shall apply or have any adverse effect on any right or protection of, or any limitation of the liability of, any person entitled to any right or protection under this Article VI existing at the time of such amendment, repeal or modification with respect to acts or omissions occurring prior to such repeal or modification. If any provision of the DGCL is amended to authorize corporate action further eliminating or limiting the personal liability of directors and officers, then the liability of directors and officers shall be eliminated or limited to the fullest extent permitted by the DGCL, as so amended.

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(B) Indemnification. Directors, officers, employees and agents of the Company may be indemnified by the Company to the fullest extent as is permitted by the laws of the State of Delaware as it presently exists or may hereafter be amended and as the Bylaws may from time to time provide.

## **ARTICLE VII STOCKHOLDER ACTION**

(A) Action by Written Consent. Any action required or permitted to be taken by the stockholders of the Company must be effected at a duly called annual or special meeting of stockholders of the Company and may not be effected by any consent in writing by such stockholders; provided, however, that any action required or permitted to be taken by the holders of any series of Preferred Stock (including, for the avoidance of doubt, the Series A Preferred Stock), voting separately as a series or separately as a class with one or more other such series, may be taken without a meeting, without prior notice and without a vote, to the extent expressly so provided by the applicable certificate of designation for such series of Preferred Stock.

(B) Special Meetings. Except as otherwise required by law and subject to the rights of the holders of any class or series of Preferred Stock (including, for the avoidance of doubt, those set forth in the Series A Preferred Stock Certificate of Designation), special meetings of stockholders of the Company: (1) may be called by the Board of Directors pursuant to a resolution adopted by a majority of the entire Board of Directors, upon motion of a director, and (2) from and including the 2028 annual meeting of stockholders, shall be called by the Chairperson of the Board of Directors or the Secretary of the Company upon a written request from stockholders of the Company holding at least fifteen percent of the voting power of all the shares of capital stock of the Company then entitled to vote on the matter or matters to be brought before the proposed special meeting that complies with such procedures for calling a special meeting of stockholders as may be set forth in the Bylaws, as may be amended from time to time.

## **ARTICLE VIII AMENDMENT OF BYLAWS**

(A) Amendment by the Board of Directors. Subject to Section (C) of this Article VIII, in furtherance, and not in limitation, of the powers conferred upon it by law, the Board of Directors is expressly authorized and empowered to amend, alter, change, modify, supplement, repeal or adopt the Bylaws; provided, however, that no Bylaws hereafter adopted shall invalidate any prior act of the directors that would have been valid if such Bylaws had not been adopted.

(B) Amendment by Stockholders. Subject to Section (C) of this Article VIII, in addition to any requirements of the DGCL (and notwithstanding the fact that a lesser percentage may be specified by the DGCL), unless otherwise specified in the Bylaws, the affirmative vote of the holders of a majority of all of the shares of capital stock of the Company then entitled to vote generally in the election of directors, voting together as a single class, shall be required for the stockholders of the Company to amend, alter, change, modify, supplement, repeal or adopt any Bylaws.

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(C) Amendment Requiring Series A Preferred Stockholders Vote. Notwithstanding anything in this Certificate of Incorporation or the Bylaws to the contrary, the unanimous affirmative vote of the holders of all of the outstanding shares of Series A Preferred Stock, voting separately as a single class, shall be required for the matters set forth in the Series A Preferred Stock Certificate of Designation (including Section 5 thereof). Any amendment, alteration, change, modification, supplement, repeal or adoption of any provision of the Bylaws or attempt thereof, directly or indirectly (including, without limitation, through any supplement, merger, combination, consolidation, tender offer, scheme of arrangement, sale, disposition, divestiture, acquisition, settlement, exchange (including, without limitation, any exchange for securities or other obligations or instruments (including, without limitation, equity-linked, derivative, synthetic or otherwise)), conversion (statutory or otherwise), swap, transfer, assignment, delegation, issuance, dividend, continuance, reclassification, stock split, recapitalization, reorganization, dissolution, termination, restructuring, joint venture, strategic partnership, migration, change in jurisdiction, division (statutory or otherwise), demerger, spin-off, split-off, separation, dividend, distribution, rights offering, or other corporate action or event, including in a single transaction or a series of related transactions), without the vote required under the Series A Preferred Stock Certificate of Designation, and any documentation thereof or related thereto, shall be expressly *ultra vires*, null and void *ab initio* and of no force or effect.

## **ARTICLE IX**

### **AMENDMENT OF CERTIFICATE OF INCORPORATION**

(A) Subject to Section (B) of Article IX, the Company hereby reserves the right at any time and from time to time to amend, alter, change, modify or repeal any provision contained in this Certificate of Incorporation, and any other provisions authorized by the DGCL may be added or inserted, in the manner now or hereafter prescribed by the DGCL, and all rights, preferences and privileges of whatsoever nature conferred on stockholders, directors or any other persons whomsoever therein granted are subject to this reservation; provided, that, notwithstanding anything in this Certificate of Incorporation to the contrary (and in addition to any vote required by law), until the 2028 annual meeting of stockholders, the affirmative vote of the holders of a majority of all of the shares of capital stock of the Company then entitled to vote thereon, voting together as a single class, shall be required to amend, alter, change, modify, supplement or repeal, or to adopt any provision of this Certificate of Incorporation inconsistent with, Sections (C), (D), (E), (F) and (G) of Article V, Section (B) of Article VII, Section (B) of Article VIII or this Article IX.

(B) Notwithstanding anything in this Certificate of Incorporation to the contrary, the unanimous affirmative vote of the holders of all of the outstanding shares of Series A Preferred Stock, voting separately as a single class, shall be required for the matters set forth in the Series A Preferred Stock Certificate of Designation (including Section 5 thereof). Any amendment, alteration, change, modification or repeal of any provision of this Certificate of Incorporation or attempt thereof, directly or indirectly (including, without limitation, through any supplement, merger, combination, consolidation, tender offer, scheme of arrangement, sale, disposition, divestiture, acquisition, settlement, exchange (including, without limitation, any exchange for

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securities or other obligations or instruments (including, without limitation, equity-linked, derivative, synthetic or otherwise)), conversion (statutory or otherwise), swap, transfer, assignment, delegation, issuance, dividend, continuance, reclassification, stock split, recapitalization, reorganization, dissolution, termination, restructuring, joint venture, strategic partnership, migration, change in jurisdiction, division (statutory or otherwise), demerger, spin-off, split-off, separation, dividend, distribution, rights offering, or other corporate action or event, including in a single transaction or a series of related transactions), without the vote required under the Series A Preferred Stock Certificate of Designation, and any documentation thereof or related thereto, shall be expressly *ultra vires*, null and void *ab initio* and of no force or effect.

**ARTICLE X**  
**PERCENTAGE BASED LIABILITIES**

(A) DuPont has and shall have, on behalf of the Company and its subsidiaries (and its and their past, present and future affiliates) (for which DuPont has and shall have power of attorney), and the Company, on behalf of itself and its subsidiaries (and its and their past, present and future affiliates) hereby irrevocably grants to DuPont, coupled with an interest, sole and exclusive authority to (1) commence, notice, prosecute, manage, control, conduct, administer, handle, manage, defend (or assume the defense of), litigate, arbitrate, mediate, settle, resolve, dispose of, cover or otherwise determine all matters whatsoever (including, as applicable, litigation strategy and choice of legal counsel or other professionals and any amendment, modification or supplement to any agreement or contract (including agreements or contracts with third parties) related to Percentage Based Liabilities (as defined below)) with respect to any action or third party claim related to, arising out of or resulting from any Percentage Based Liability; (2) cover, make, submit, notice, control, conduct, administer, handle, manage, settle, prosecute, litigate, arbitrate, mediate, resolve, dispose of or otherwise determine all matters whatsoever with respect to any insurance claims or any other matters under or relating to any insurance policies (whether any such insurance policy is in existence or in effect, prior to, at or following 12:03 a.m., New York City Time, on November 1, 2025) related to, arising out of or resulting from any Percentage Based Liability; and (3) cover, make, submit, notice, control, conduct, administer, handle, manage, settle, prosecute, litigate, arbitrate, mediate, resolve, dispose of or otherwise determine claims against third parties who have agreed to indemnify the Company or its subsidiaries, DuPont or its subsidiaries, or any of their respective past, present or future affiliates, against any indemnifiable losses or other liabilities related to, arising out of or resulting from any Percentage Based Liability, in each of clauses (1), (2) and (3), including any action or third party claim related to, arising out of or resulting from (i) any alleged liability that, if determined to be true, would constitute a Percentage Based Liability, and (ii) any other liability that DuPont believes in good faith would constitute a Percentage Based Liability, in each case, until such time as an arbitral tribunal validly appointed in accordance with any such contract between DuPont and the Company regarding disputes related to such Percentage Based Liability finally determines that such liability does not constitute a Percentage Based Liability. For the avoidance of doubt, the consent of the Company or its subsidiaries shall not be required in respect of the matters or actions (or inactions) set forth in this Section (A) of this Article X.

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(B) For purposes of this Article X, "Percentage Based Liabilities" shall mean any and all indebtedness, liabilities, costs, expenses, interest and obligations, whether accrued or fixed, absolute or contingent, matured or unmatured, known or unknown, foreseen or unforeseen, reserved or unreserved, or determined or determinable, including those arising under any law, action, whether asserted or unasserted, or order, writ, judgment, injunction, decree, stipulation, determination or award entered by or with any governmental entity and those arising under any contract or agreement or any fines, damages or equitable relief which may be imposed and including all costs and expenses related thereto, agreed in writing by the Company and DuPont to be borne economically by each of the Company and DuPont on a percentage basis, whether via assignment, assumption, allocation or otherwise.

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**IN WITNESS WHEREOF**, the undersigned has duly executed this Amended and Restated Certificate of Incorporation.

**QNTY ELECTRONICS, INC.**

By: /s/ Jon Kemp

Name: Jon Kemp

Title: Authorized Officer

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**Exhibit A**

**POWER OF ATTORNEY**

[*See attached.*]



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## POWER OF ATTORNEY

Reference is made to that certain Separation and Distribution Agreement, effective as of November 1, 2025, by and between DuPont de Nemours, Inc., a Delaware corporation ("RemainCo"), and Qnity Electronics, Inc., a Delaware corporation ("ElectronicsCo") (as such agreement may be amended, supplemented, amended and restated or otherwise modified from time to time, the "SDA"). Capitalized terms used and not otherwise defined herein have the respective meanings ascribed to them in the SDA.

1. ElectronicsCo, on behalf of itself and the other members of its Group (and its and their past, present and future Affiliates) (collectively, the "ElectronicsCo Grantors"), does hereby irrevocably constitute and appoint RemainCo as each ElectronicsCo Grantor's true and lawful attorney-in-fact, with full power of substitution, in each ElectronicsCo Grantor's name, place and stead, to:
  - (a) (i) commence, notice, prosecute, manage, control, conduct, administer, handle, manage, defend (or assume the defense of), litigate, arbitrate, mediate, settle, resolve, dispose of, cover or otherwise determine all matters whatsoever (including, as applicable, litigation strategy and choice of legal counsel or other professionals and any amendment, modification or supplement to any Contract (including Contracts with third parties) related to Legacy Liabilities) with respect to any Action or Third Party Claim related to, arising out of or resulting from any Legacy Liability; (ii) cover, make, submit, notice, control, conduct, administer, handle, manage, settle, prosecute, litigate, arbitrate, mediate, resolve, dispose of or otherwise determine all matters whatsoever with respect to any insurance claims or any other matters under or relating to any Policies (whether any such Policy is in existence or in effect, prior to, at or following the time of the Distribution) related to, arising out of or resulting from any Legacy Liability; and (iii) cover, make, submit, notice, control, conduct, administer, handle, manage, settle, prosecute, litigate, arbitrate, mediate, resolve, dispose of or otherwise determine claims against third parties who have agreed to indemnify any members of the ElectronicsCo Group, the RemainCo Group, or any of their respective past, present or future Affiliates, against any Indemnifiable Losses or other Liabilities related to, arising out of or resulting from any Legacy Liability, including any claims against third parties pursuant to the indemnification provisions of the Prior Transaction Agreements, in each of clauses (i), (ii) and (iii), including any Action or Third Party Claim related to, arising out of or resulting from (A) any alleged Liability that, if determined to be true, would constitute a Legacy Liability, and (B) any other Liability that RemainCo believes in good faith would constitute a Legacy Liability, in each case, until such time as an Arbitral Tribunal finally determines (in accordance with Article X of the SDA) that such Liability does not constitute a Legacy Liability pursuant to the SDA; and
  - (b) take any other action of any type whatsoever in connection with the foregoing which, in the opinion of such attorney-in-fact, may be of benefit to, in the best interest of, or legally required of the ElectronicsCo Grantors, it being understood that the documents executed by such attorney-in-fact on behalf of any of the ElectronicsCo Grantors pursuant to this power of attorney shall be in such form and shall contain such terms and conditions as such attorney-in-fact may approve in the sole discretion of such attorney-in-fact.

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#### **TERM AND TERMINATION**

2. This power of attorney shall commence on the date of execution. This power of attorney is coupled with an interest and shall also be irrevocable, continuously valid and survive and not be affected by any ElectronicsCo Grantor's insolvency or dissolution. Nothing herein is intended to revoke any power of attorney previously granted by any ElectronicsCo Grantor.

#### **DISPUTE RESOLUTION**

3. In the event of a controversy, dispute or Action between RemainCo and ElectronicsCo arising out of, in connection with, or in relation to this power of attorney or any of the matters set forth herein, including with respect to the interpretation, performance, nonperformance, validity or breach thereof, and including, but not limited to, any question of the Arbitral Tribunal's jurisdiction, the existence, scope or validity of this arbitration agreement or the arbitrability of any claim, shall be resolved pursuant to and in accordance with the dispute resolution provisions set forth in Article X of the SDA.

#### **GOVERNING LAW**

4. The parties hereto agree that this power of attorney and the powers granted herein are governed by and construed in accordance with the Laws of the State of Delaware, without giving effect to the conflicts of laws principles thereof, and permitted under the relevant provisions of the Delaware General Corporation law, including Del. Code Ann. tit. 8, § 122, §141, and all other applicable laws that authorize the creation, delegation and enforcement of powers of attorney for commercial and corporate purposes.

*[Signature Page Follows]*

**IN WITNESS WHEREOF**, ElectronicsCo, on behalf of itself and the other members of its Group (and its and their past, present and future Affiliates), has caused this power of attorney to be executed, effective as of this 30<sup>th</sup> day of October, 2025.

QNITY ELECTRONICS, INC.

By: /s/ Peter W. Hennessey  
Name: Peter W. Hennessey  
Title: SVP & General Counsel

Acknowledged and Agreed:

DUPONT DE NEMOURS, INC.

By: /s/ Erik T. Hoover  
Name: Erik T. Hoover  
Title: SVP & General Counsel

**IN PRESENCE OF:**

State of Delaware County of New Castle.

This instrument was acknowledged before me on October 30, 2025 (date) by Erik T. Hoover and Peter W. Hennessey (name(s) of person(s)) as SVP & General Counsel (type of authority, *e.g.*, officer, trustee, etc.) of DuPont de Nemours, Inc. and Qntiy Electronics, Inc., respectively (name of party on behalf of whom the instrument was executed).

/s/ Marlene Zimmerman  
Signature of notarial officer

(Seal, if any)  
[SEAL]

Exec. Asst / Notary  
Title (and Rank)  
My commission expires: February 19, 2028

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**Exhibit B**

**SERIES A PREFERRED STOCK CERTIFICATE OF DESIGNATION**

[See attached.]

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**CERTIFICATE OF DESIGNATION OF  
SERIES A PREFERRED STOCK OF  
QNITY ELECTRONICS, INC.**

Pursuant to Sections 103, 141 and 151 of the  
General Corporation Law of the State of Delaware

Qnity Electronics, Inc., a Delaware corporation (the “Company”), certifies that pursuant to the authority contained in its Amended and Restated Certificate of Incorporation (as amended or restated from time to time, the “Certificate of Incorporation”), and in accordance with the provisions of Sections 103, 141 and 151 of the General Corporation Law of the State of Delaware (the “DGCL”), the Board of Directors of the Company (the “Board of Directors”), on October 15, 2025, duly approved and adopted the following resolution, which resolution remains in full force and effect on the date hereof:

RESOLVED, that pursuant to the authority of the Board of Directors conferred by the Certificate of Incorporation and applicable law, a series of preferred stock of the Company (“Preferred Stock”) be, and hereby is, authorized, designated and created, effective as of 11:59 p.m., New York City Time, on October 31, 2025 (the “Effective Time”), and that the voting powers, designations, preferences and relative, participating, optional and other special rights, and qualifications, limitations and restrictions thereof, of the shares of such series of Preferred Stock, in addition to any provisions set forth in the Certificate of Incorporation that are applicable to such series of Preferred Stock or the Preferred Stock of the Company of all classes and series, are as follows:

Section 1. Designation. The shares of such series of Preferred Stock shall be designated as “Series A Preferred Stock” having a par value of \$1,500,000.00 per share (the “Series A Preferred Stock”), with a liquidation preference amount of \$1,500,000.00 per share (the “Liquidation Preference”). For the avoidance of doubt, the Liquidation Preference shall not be subject to any upward or downward adjustment, except as set forth in Section 14(a). The Series A Preferred Stock shall rank, with respect to payment of dividends and distributions, and the distribution of assets upon the voluntary or involuntary liquidation, winding-up or dissolution (a “Liquidation”) of the Company, (a) senior to the common stock having a par value of \$0.01 per share of the Company (the “Common Stock”), whether now outstanding or hereafter issued, and to each other class or series of stock of the Company (including, without limitation, any class or series of Preferred Stock established after Effective Time by the Board of Directors) the terms of which do not expressly provide that such class or series ranks senior to, or *pari passu* with, the Series A Preferred Stock as to payment of dividends and distributions, and the distribution of assets upon the Liquidation of the Company (collectively, “Junior Stock”); (b) *pari passu* with each other class or series of stock of the Company (including, without limitation, any class or series of Preferred Stock established after the Effective Time by the Board of Directors) the terms of which expressly provide that such class or series ranks *pari passu* with the Series A Preferred Stock as to payment of dividends and distributions, and the distribution of assets upon any Liquidation of the Company (collectively, “Parity Stock”); and (c) junior to each other class or series of stock of the Company (including, without limitation, any class or series of Preferred Stock established after the Effective Time by the Board of Directors) the terms of which expressly provide that such class or series ranks senior to the Series A Preferred Stock as to payment of dividends and distributions, and the distribution of assets upon any Liquidation of the Company (collectively, “Senior Stock”). The Company’s ability to issue Parity Stock and Senior Stock shall be subject to the provisions of Section 5.

Section 2. Number of Shares. The number of authorized shares of Series A Preferred Stock shall be one (1). Such number may, from time to time, be increased (but not in excess of the total number of authorized shares of Preferred Stock) or decreased (but not below the number of shares of Series A Preferred Stock then outstanding) by further resolution duly adopted by the Board of Directors and in a manner permitted by the DGCL and the terms provided herein (including, without limitation, Section 5).

Section 3. Dividends.

(a) Rate. Holders of shares of Series A Preferred Stock shall be entitled to receive cash dividends on the Series A Preferred Stock at a rate per annum of eight percent (8%) (the “Dividend Rate”) per share on the sum of (x) the Liquidation Preference *plus* (y) all accrued and unpaid dividends with respect to such share for all prior Dividend Payment Periods (as defined below). Dividends shall be cumulative and payable quarterly on the fifteenth (15<sup>th</sup>) calendar day (or the following Business Day if the fifteenth (15<sup>th</sup>) calendar day is not a Business Day) of January, April, July and October of each year (commencing on January 15, 2026) (each such date, a “Dividend Payment Date”, and the period from and including the date of the Effective Time to the first Dividend Payment Date and each such quarterly period thereafter beginning on the day after the immediately preceding Dividend Payment Date and ending on and including the immediately following Dividend Payment Date are each referred to herein as a “Dividend Payment Period”); provided that if the declaration and payment of such dividends is not permitted under applicable law because the Company does not have sufficient profits, surplus or other funds legally available for the payment of such dividends, such dividends shall not be required to be declared or be paid or payable on such Dividend Payment Date, and instead, such dividends shall be declared, become payable and be paid on the first succeeding Dividend Payment Date on which the Company is not prohibited under applicable law from declaring and paying such dividends (and, for the avoidance of doubt, such dividends shall be payable in addition to, and not in lieu of, any dividends which would otherwise be payable on such succeeding Dividend Payment Date); provided, further, that accrued and unpaid dividends for any prior quarterly Dividend Payment Period may be paid at any time. Dividends, whether or not declared by the Board of Directors and whether or not there are profits, surplus or other funds of the Company legally available therefor, will accrue at the Dividend Rate on a daily basis from and including the date of the Effective Time and computed on the basis of a 365-day year and the actual number of days elapsed for any Dividend Payment Period.

(b) Payment. The Company shall either pay the dividends payable on each Dividend Payment Date entirely in cash or, if the Company does not pay such dividends entirely in cash on any Dividend Payment Date, then such accrued and unpaid dividends on each share of Series A Preferred Stock shall be accumulated and shall remain as an amount of accrued and unpaid Dividends on such share until paid in cash to the Holder thereof. Dividends shall accumulate whether or not in any Dividend Payment Period there have been profits, surplus or other funds of the Company legally available for the payment of such dividends. If the Company does not pay Dividends accrued during the preceding Dividend Payment Period(s) entirely in

cash on any Dividend Payment Date, then, not less than five (5) days following such Dividend Payment Date, the Company (or its transfer agent) shall provide to the Holders of record as of the applicable Dividend Record Date (as defined below), by first class mail, postage prepaid, and e-mail addressed to the Holders of record at their respective last addresses and e-mails appearing on the stock records, stock ledger or books of the Company, a statement setting forth the aggregate amount of accrued and unpaid dividends for such Dividend Payment Period and all prior Dividend Payment Periods with respect to each share of Series A Preferred Stock. Each dividend paid in cash shall be paid by wire transfer in immediately available funds to the account(s) designated by each Holder in writing given to the Company from time to time.

(c) Record Date. Dividends shall be payable (i) in the case of dividends paid in cash on a Dividend Payment Date, to the Holders of record at the close of business on the last Business Day of the calendar month immediately preceding the month during which the Dividend Payment Date falls, and (ii) in the case of dividends that are initially not paid in cash and instead accumulated and subsequently paid upon a payment date established by the Company for such purpose, to the Holders of record the date that is ten (10) days prior to the applicable payment date of such accumulated and unpaid dividends (each such record date, a “Dividend Record Date”). For clarity, in the case of payments pursuant to Section 4 in connection with a Liquidation, such payments (including, without limitation, in respect of dividends that are initially not paid in cash and instead accumulated) shall be made to Holders in accordance with such section.

(d) Payment Restrictions. No dividends or other distributions (other than a dividend or distribution payable solely in shares of Parity Stock or Junior Stock (in the case of Parity Stock) or Junior Stock (in the case of Junior Stock) and other than cash paid in lieu of fractional shares) may be declared, made or paid, or set apart for payment upon, any Parity Stock or Junior Stock, nor may any Parity Stock or Junior Stock be redeemed, purchased or otherwise acquired for any consideration (or any money paid to or made available for a sinking fund for the redemption of any Parity Stock or Junior Stock) by or on behalf of the Company (except by conversion into or exchange for shares of Parity Stock or Junior Stock (in the case of Parity Stock) or Junior Stock (in the case of Junior Stock)), unless all accrued and unpaid dividends shall have been or contemporaneously are declared and paid, or are declared and a sum of cash sufficient for the payment thereof is set apart in a segregated account for such payment, on all issued and outstanding Series A Preferred Stock and any Parity Stock for all Dividend Payment Periods ending on or prior to the date of such declaration, payment, redemption, purchase or acquisition. Notwithstanding the foregoing, if full cumulative and unpaid dividends have not been paid on the Series A Preferred Stock and any Parity Stock, dividends may be declared and paid on the Series A Preferred Stock and such Parity Stock so long as the dividends are declared and paid pro rata so that the per share amount of dividends declared on the Series A Preferred Stock and such Parity Stock will in all cases bear to each other the same ratio that accrued and unpaid dividends per share on the shares of Series A Preferred Stock and such other Parity Stock bear to each other. Subject to the foregoing, dividends (payable in cash, stock or otherwise) as may be determined by the Board of Directors may be declared and paid on the Common Stock and any Parity Stock or Junior Stock, from time to time out of the funds of the Company legally available therefor, and the Series A Preferred Stock shall not be entitled to participate in any such dividends.

(e) Payment Default. If at any time the dividends on the shares of Series A Preferred Stock contemplated by this Section 3 shall be in arrears in an amount equal to one (1) quarterly dividend thereon, then during the period from the occurrence of such event until such time as all accrued and unpaid dividends for all previous Dividend Payment Periods and for the current Dividend Payment Period on all shares of Series A Preferred Stock then outstanding shall have been declared and paid or set apart for payment, any dividends otherwise payable on such Dividend Payment Periods on the Series A Preferred Stock shall continue to accrue and cumulate at a rate per annum of the Dividend Rate, *plus* five percent (5%), during such period, payable quarterly in arrears on each Dividend Payment Date.

Section 4. Liquidation Preference. In the event of any Liquidation of the Company, each Holder shall be entitled to receive out of the assets of the Company or proceeds thereof available for distribution to stockholders of the Company (whether capital or surplus), before any distribution of assets is made on the Common Stock or any other Junior Stock, an amount per share of Series A Preferred Stock held by such Holder equal to the sum of (x) the Liquidation Preference *plus* (y) all accrued and unpaid dividends with respect to such share through and including the date of such Liquidation of the Company. If undertaken in compliance with Section 5, none of (i) the sale, conveyance, exchange or transfer (for cash, shares of stock, securities or other consideration) of all or substantially all of the business, property or assets of the Company (other than in connection with the Liquidation of the Company), (ii) the merger, division, conversion or consolidation of the Company into or with any other Person or (iii) the merger, division, conversion or consolidation of any other Person into or with the Company, shall constitute a Liquidation of the Company for the purposes of the immediately preceding sentence.

If the assets of the Company available for distribution to the Holders upon any Liquidation of the Company shall be insufficient to pay in full all amounts to which such Holders are entitled pursuant to this Section 4, no such distribution shall be made on account of any shares of Parity Stock upon such Liquidation unless proportionate distributable amounts shall be paid on account of the shares of Series A Preferred Stock, ratably, in proportion to the full distributable amounts for which such Holders and holders of any Parity Stock are entitled upon such Liquidation, with the amount allocable to each class or series of such stock determined on a pro rata basis of the aggregate liquidation preference of the outstanding shares of each class or series and accrued and unpaid dividends to which each class or series is entitled.

After the payment to the Holders of the full preferential amounts provided for in this Section 4, such Holders shall have no right or claim in their capacity as Holders to any of the remaining assets of the Company. The Holders shall not be entitled to any further payments in their capacity as Holders in the event of any Liquidation other than what is expressly provided for in this Section 4.

#### Section 5. Voting Rights.

(a) Holders of shares of Series A Preferred Stock will not have any voting rights, except for (i) the voting rights, if any, required by law or the Certificate of Incorporation, including the right to vote, together with the common stock of the Company as a single class, on the removal or election of any directors of the Board of Directors for which each outstanding



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share of Series A Preferred Stock will be entitled to one (1) vote, and (ii) the voting rights described in this Section 5. So long as any shares of Series A Preferred Stock are outstanding, in addition to clause (i) of the immediately preceding sentence, the prior express and unanimous affirmative vote or written consent of all of the Holders, voting or consenting separately as a single class, shall be required to:

(i) amend, alter, change, modify, supplement, repeal or adopt any provision of this Certificate of Designation, directly or indirectly (including, without limitation, through any merger, combination, consolidation, tender offer, scheme of arrangement, sale, disposition, divestiture, acquisition, purchase, settlement, exchange (including, without limitation, any exchange for securities or other obligations or instruments (including, without limitation, equity-linked, derivative, synthetic or otherwise)), conversion (statutory or otherwise), swap, transfer, assignment, delegation, issuance, dividend, continuance, reclassification, stock split, recapitalization, reorganization, dissolution, termination, restructuring, joint venture, strategic partnership, migration, change in jurisdiction, division (statutory or otherwise), demerger, spin-off, split-off, separation, dividend, distribution, rights offering, or other corporate action or event, including, without limitation, in a single transaction or a series of related transactions (each, a "Corporate Event"));

(ii) amend, alter, change, modify, supplement or repeal, or adopt any provision of the Certificate of Incorporation (including, without limitation, any certificate of designation relating to any series of Preferred Stock) or the Bylaws of the Company (as amended or restated from time to time, the "Bylaws") inconsistent with, directly or indirectly (including, without limitation, through any Corporate Event that would result in such amendment, alteration, change, modification, supplement, repeal or adoption), the following sections or articles of the Certificate of Incorporation: Section (A) or Section (B) of Article III, Article IV, Section (A) or Section (B) of Article V, Article VIII, Article IX or Article X; or Section 7.2 of the Bylaws; other than, in each case, any such amendment, alteration, change, modification, supplement, repeal or adoption effective prior to 12:03 a.m., New York City Time, on November 1, 2025 (the "Distribution Effective Time");

(iii) amend, alter, change, modify, supplement, repeal or adopt any provision of the Certificate of Incorporation or the Bylaws, directly or indirectly (including, without limitation, through any Corporate Event that would result in such amendment, alteration, change, modification, supplement, repeal or adoption), in a manner that circumvents, revokes, impairs, negates, supersedes, prohibits, restricts, diminishes, hinders, prevents, interferes with or otherwise adversely affects any of the powers, designations, preferences, privileges, protections or rights of the Holders of shares of Series of Series A Preferred Stock;

(iv) amend, alter, change, modify, supplement, repeal or adopt any provision of the Certificate of Incorporation, directly or indirectly (including, without limitation, through any Corporate Event that would result in such amendment, alteration, change, modification, supplement, repeal or adoption), or take or attempt to take any action, enter into any agreement, contract or other arrangement, or consummate any transaction (including, without limitation, any financing transaction or other Corporate Event), after the Distribution Effective Time, in a manner that results in shares of the Series A Preferred Stock no longer being outstanding or no longer being held (either beneficially or of record) by the Trust (as defined below);

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(v) issue or increase the authorized amount of shares of Series A Preferred Stock, or authorize, create, issue or enter into any obligation, instrument or security (including, without limitation, equity-linked, derivative, synthetic or otherwise) convertible into, exercisable or exchangeable for, or evidencing a right to purchase or acquire, any shares of Series A Preferred Stock, other than the initial issuance of one (1) share of Series A Preferred Stock to DuPont de Nemours, Inc. ("DuPont") following the Effective Time but before the Distribution Effective Time, and immediately thereafter but before the Distribution Effective Time, the contribution of such one (1) share of Series A Preferred Stock from DuPont to the Trust;

(vi) authorize, create, designate or issue any series or class of securities of the Company, including, without limitation, any series or class of other Preferred Stock or debt security, that has powers, designations, preferences, privileges, protections or rights that circumvent, revoke, impair, negate, supersede, prohibit, restrict, diminish, hinder, prevent, interfere with or otherwise adversely affect any of the powers, designations, preferences, privileges, protections or rights of the Series A Preferred Stock;

(vii) reclassify, alter or amend any existing Parity Stock or Junior Stock if such reclassification, alteration or amendment would result in such Parity Stock or Junior Stock becoming Senior Stock or Parity Stock, respectively;

(viii) amend, alter, change, modify, supplement, repeal or adopt any provision of the Certificate of Incorporation, directly or indirectly (including, without limitation, through any Corporate Event that would result in such amendment, alteration, change, modification, supplement, repeal or adoption), in a manner that results in the Company being incorporated or formed under the laws of any jurisdiction other than the State of Delaware;

(ix) convert the Company into, or causing its legal form, jurisdiction or existence to be, any other type of entity, including, without limitation, a partnership, limited partnership, limited liability partnership, limited liability limited partnership, general partnership, non-profit corporation, public benefit corporation, statutory trust or limited liability company, other than a Delaware for-profit corporation; or

(x) take or attempt to take any action, enter into any agreement, contract or other arrangement, or consummate any transaction (including, without limitation, any financing transaction or other Corporate Event), after the Effective Time, that circumvents, revokes, impairs, negates, supersedes, prohibits, restricts, diminishes, hinders, prevents, interferes with or otherwise adversely affects any of the powers, designations, preferences, privileges, protections or rights of the Series A Preferred Stock; provided that, in the case of a Corporate Event that results in the direct or indirect assignment, assumption, allocation, delegation or transfer, in whole or in part, whether voluntarily, involuntarily, by operation of law or otherwise, of any agreement, contract or other arrangement between the Company and DuPont that assigns or allocates (whether as a legal or economic matter) Percentage Based Liabilities (as defined in the Certificate of Incorporation) between the Company and DuPont, and/or their

respective subsidiaries, to a Person other than the Company, if (A) such assignee, recipient, delegatee or transferee of such agreement, contract or other arrangement (1) issues to the Holders a class or series of preference securities of such assignee, recipient, delegatee or transferee that has powers, designations, preferences, privileges, protections and rights that are identical to those of the Series A Preferred Stock set forth in this Certificate of Designation and the Certificate of Incorporation (including, for the avoidance of doubt, Section (A) and Section (B) of Article III, Article IV, Section (A) and Section (B) of Article V, Article VIII, Article IX and Article X of the Certificate of Incorporation), (2) includes such identical powers, designations, preferences, privileges, protections and rights (including the validity, enforceability, legality and effectiveness of such powers, designations, preferences, privileges, protections and rights) are set forth in the organizational and governing documents (including, without limitation, the certificate of incorporation and certificate of designation, if a corporation, or the equivalent organizational and governing documents of any other type of entity) of such assignee, recipient, delegatee or transferee, in form and substance satisfactory to the Holders of shares of the Series A Preferred Stock, and (3) irrevocably grants, on behalf of itself and its subsidiaries (and its and their past, present and future affiliates), DuPont a power of attorney, coupled with an interest, identical to the Power of Attorney (as defined in the Certificate of Incorporation), and (B) the Company (and its ultimate parent entity immediately following the consummation of such Corporate Event) provides a legally binding, absolute, irrevocable and unconditional guarantee of the obligations of such assignee, recipient, delegatee or transferee set forth in clause (A) of this Section 5(a)(x), in form and substance satisfactory to the Holders of shares of the Series A Preferred Stock, then such Corporate Event shall not be deemed to circumvent, revoke, impair, negate, supersede, prohibit, restrict, diminish, hinder, prevent, interfere with or otherwise adversely affect any of the powers, designations, preferences, privileges, protections or rights of the Series A Preferred Stock.

Pursuant to this Certificate of Designation and the Certificate of Incorporation, each Holder of shares of Series A Preferred Stock may vote, withhold its vote, condition or refuse to vote, such shares, in each case, in its sole and absolute discretion, and each such Holder shall not have any duty (fiduciary or otherwise) to the Company or the other stockholders of the Company in making such determination or in making any other determination in his, her or its capacity as a Holder.

The Company shall (i) not, and shall cause its subsidiaries (including its and their past, current or future affiliates) not to, take any action, directly or indirectly (including, without limitation, through any Corporate Event) to circumvent, avoid or seek to circumvent or avoid the compliance, observance or performance of any of the terms of this Certificate of Designation and the Certificate of Incorporation (including, for the avoidance of doubt, Section (A) and Section (B) of Article III, Article IV, Section (A) and Section (B) of Article V, Article VIII, Article IX and Article X of the Certificate of Incorporation), and (ii) at all times in good faith carry out all of the provisions of this Certificate of Designation and the Certificate of Incorporation (including, for the avoidance of doubt, Section (A) and Section (B) of Article III, Article IV, Section (A) and Section (B) of Article V, Article VIII, Article IX and Article X of the Certificate of Incorporation) and take all action as may be required to protect any and all of the powers, designations, preferences, privileges, protections or rights of the Series A Preferred Stock.

(b) Any amendment, alteration, change, modification, supplement, repeal or adoption of any provision of this Certificate of Designation or the Certificate of Incorporation, directly or indirectly (including, without limitation, through any Corporate Event), or any other action, or attempt thereof, in each case requiring the prior affirmative and unanimous vote or written consent of all of the Holders pursuant to this Section 5, and any documentation thereof or related thereto, without the vote or written consent required under this Section 5, shall be expressly *ultra vires*, null and void *ab initio* and of no force or effect.

(c) Each Holder of shares of Series A Preferred Stock shall have one (1) vote per share of Series A Preferred Stock on any matter on which Holders of shares of Series A Preferred Stock are entitled to vote, whether separately or together with any other series or class of stock of the Company pursuant to applicable law or otherwise, including any action taken by written consent.

Section 6. Certain Corporate Events. Subject to Section 5, in the event the Company enters into, is a party to or is otherwise involved in, directly or indirectly, a Corporate Event that results in the direct or indirect assignment, assumption, allocation, delegation or transfer, in whole or in part, whether voluntarily, involuntarily, by operation of law or otherwise, of any agreement, contract or other arrangement between the Company and DuPont that assigns or allocates (whether as a legal or economic matter) Percentage Based Liabilities (as defined in the Certificate of Incorporation) between the Company and DuPont, and/or their respective subsidiaries, to a Person other than the Company, (a) the Company shall cause such assignee, recipient, delegatee or transferee of such agreement, contract or other arrangement (i) to issue to the Holders a class or series of preference securities of such assignee, recipient, delegatee or transferee that has the powers, designations, preferences, privileges, protections and rights that are identical to those of the Series A Preferred Stock set forth in this Certificate of Designation and the Certificate of Incorporation (including, for the avoidance of doubt, Section (A) and Section (B) of Article III, Article IV, Section (A) and Section (B) of Article V, Article VIII, Article IX and Article X of the Certificate of Incorporation), (ii) to include such identical powers, designations, preferences, privileges, protections and rights (including the validity, enforceability, legality and effectiveness of such powers, designations, preferences, privileges, protections and rights) in the organizational and governing documents (including, without limitation, the certificate of incorporation and certificate of designation, if a corporation, or the equivalent organizational and governing documents of any other type of entity) of such assignee, recipient, delegatee or transferee, in form and substance satisfactory to the Holders of shares of the Series A Preferred Stock, and (iii) to irrevocably grant, on behalf of itself and its subsidiaries (and its and their past, present and future affiliates), DuPont a power of attorney, coupled with an interest, identical to the Power of Attorney (as defined in the Certificate of Incorporation), and (b) the Company (and its ultimate parent entity immediately following the consummation of such Corporate Event) shall provide a legally binding, absolute, irrevocable and unconditional guarantee of the obligations of such assignee, recipient, delegatee or transferee set forth in clause (a) of this Section 6, in form and substance satisfactory to the Holders of shares of the Series A Preferred Stock. Unless such conditions set forth in clauses (a) and (b) of this Section 6 are satisfied, any such Corporate Event, or attempt thereof, and any documentation thereof or related thereto, shall be expressly *ultra vires*, null and void *ab initio* and of no force or effect.

Section 7. Action by Written Consent. Any action required or permitted to be taken by the Holders of shares of Series A Preferred Stock may be taken without a meeting if all Holders of shares of Series A Preferred Stock consent to the action in writing, without prior notice. Such action by written consent shall be treated for all purposes as a vote taken at a meeting of Holders of shares of Series A Preferred Stock.

Section 8. Notice. Written notice of any event or action that could require a vote of the Holders of shares of Series A Preferred Stock under Section 5 shall be provided to all of the Holders of shares of Series A Preferred Stock and DuPont and at least sixty (60) days in advance of (x) any such event or such action being taken or (y) any stockholders' meeting being called, or any vote or consent being solicited from the stockholders of the Company, to approve, adopt or otherwise vote in any manner on any such event or action. In the event of a Liquidation, the Company shall, no later than two (2) days prior to the date the Board of Directors approves such action, or no later than five (5) days prior to any stockholders' meeting called, or any vote or consent being solicited from the stockholders of the Company, to approve, adopt or otherwise vote in any manner on such action, or within five (5) days of the commencement of any involuntary proceeding, whichever is earlier, provide each Holder of shares of Series A Preferred Stock and DuPont written notice of the proposed action. Each such written notice shall describe in reasonable detail the terms and conditions of such proposed event or action, including a description of the structure and timing of the proposed event or action, and any stock, cash or property to be received by the Holders of shares of Series A Preferred Stock upon the consummation of the proposed event or action, and the date of delivery thereof. If any change in the facts set forth in the initial notice shall occur, the Company shall promptly give written notice to each Holder of shares of Series A Preferred Stock of such change. The Company shall also provide to all of the Holders of shares of Series A Preferred Stock and DuPont a copy of any notice of stockholders' meeting and of any consent solicitation or proxy solicitation provided to the holders of any other series or class of capital stock of the Company substantially concurrently as such notice or solicitation provided to holders of such other series or class of capital stock of Company.

Section 9. Preemption and Conversion. Holders of shares of Series A Preferred Stock are not entitled to any preemptive, conversion or subscription rights in respect of any shares of capital stock or other securities of the Company.

Section 10. Maturity. The shares of Series A Preferred Stock shall be perpetual and shall not mature.

Section 11. Redemption. The Company may not, at any time or under any circumstances, redeem any outstanding shares of Series A Preferred Stock.

Section 12. Ownership.

(a) Certificates. Shares of Series A Preferred Stock may be certificated or uncertificated in accordance with the DGCL. To the extent any certificates are issued with respect to any shares of Series A Preferred Stock, every Holder represented by certificates shall be entitled to have a certificate, in such form as may be prescribed by law and the Board of Directors, signed in the name of the Company by the Chairman of the Board of Directors or the

Chief Executive Officer or a President or a Vice President, and by the Treasurer or an Assistant Treasurer or the Secretary or an Assistant Secretary of the Company, representing the number of shares registered in certificate form held by such Holder. Any or all the signatures on a certificate may be a facsimile. In case any officer, transfer agent or registrar who has signed or whose facsimile signature has been placed upon a certificate shall have ceased to be such officer, transfer agent or registrar before such certificate is issued, it may be issued by the Company with the same effect as if such Person were such officer, transfer agent or registrar at the date of issue.

(b) Record Ownership. A record of the name, address and e-mail of each Holder, each certificate (if applicable) held by such Holder, the number of shares represented thereby (if certificated) or owned by such Holder, and the dates of issue thereof shall be made on the Company's books. The initial Holder of record of all of the issued and outstanding one (1) share of the Series A Preferred Stock was DuPont de Nemours, Inc., which transferred all of its shares of Series A Preferred Stock (immediately following the issuance thereof) to the Novus 2025 Trust (the "Trust"). The Company shall be entitled to treat the Holder of record of any share of Series A Preferred Stock as the Holder in fact thereof, and accordingly shall not be bound to recognize any equitable or other claim to or interest in any share on the part of any other Person, whether or not it shall have express or other notice thereof, except as required by the laws of the State of Delaware. If certificated, the certificates of the Series A Preferred Stock shall be numbered consecutively.

(c) Transfer of Ownership. The shares of Series A Preferred Stock have not been registered under the Securities Act or any other applicable securities laws and may not be offered or sold except in compliance with the registration requirements of the Securities Act and any other applicable securities laws, or pursuant to an exemption from registration under the Securities Act and any other applicable securities laws, or in a transaction not subject to such laws. Subject to applicable laws, transfers of shares of Series A Preferred Stock shall be made on the books of the Company only by direction of the registered Holder thereof, lawfully constituted in writing, and, if such shares are represented by a certificate, only upon the surrender to the Company or its transfer agent or other designated agent of the certificate representing such shares properly endorsed or accompanied by a properly executed written assignment of the shares evidenced thereby, which certificate shall be canceled before a new certificate or uncertificated shares are issued.

(d) Lost Certificates. If any of the Series A Preferred Stock certificates shall be mutilated, lost, stolen or destroyed, the Company shall issue, in exchange and in substitution for and upon cancellation of the mutilated Series A Preferred Stock certificate, or in lieu of and substitution for the Series A Preferred Stock certificate lost, stolen or destroyed, a new Series A Preferred Stock certificate of like tenor and representing an equivalent amount of shares of Series A Preferred Stock, but only upon receipt of an affidavit as to such Holder's ownership of the certificate and of the facts which go to prove its mutilation, loss, theft or destruction

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Section 13. Definitions. As used herein, the following terms shall have the following respective meanings; provided, that any capitalized term used but not defined herein shall have the meaning ascribed to such term in the Certificate of Incorporation:

- (a) “Business Day” means any day that is not a Saturday, a Sunday or any other day on which banks are required or authorized by law to be closed in The City of New York.
- (b) “Exchange Act” means the Securities Exchange Act of 1934, as amended.
- (c) “Holder” means a holder of shares of Series A Preferred Stock.
- (d) “Person” means any individual, firm, corporation, partnership, limited liability company, trust, joint venture, governmental entity or other entity.
- (e) “Securities Act” means the Securities Act of 1933, as amended.

Section 14. Miscellaneous.

- (a) The amounts to be paid or set aside for payment as provided for in Section 3 and Section 4 shall be proportionately increased or decreased in inverse relation to the change in the number of outstanding shares of Series A Preferred Stock resulting from any stock dividend, stock split, reverse stock split, stock consolidation, subdivision, reclassification, reorganization, recapitalization, combination or other similar event involving a change in the capital structure of the Series A Preferred Stock. For the avoidance of doubt, any such events shall be subject to any vote required under Section 5.
- (b) Subject to applicable escheat laws, any monies set aside by the Company in respect of any payment with respect to shares of the Series A Preferred Stock, or dividends thereon, and unclaimed at the end of two (2) years from the date upon which such payment is due and payable shall revert to the general funds of the Company, after which reversion the Holders of such shares shall look only to the general funds of the Company for the payment thereof. Any interest accrued on funds so deposited shall be paid to the Company from time to time.
- (c) Except as may otherwise be required by law, the shares of Series A Preferred Stock shall not have any voting powers, designations, preferences or relative, participating, optional or other special rights, or qualifications, limitations or restrictions thereof, other than those specifically set forth in this Certificate of Designation.
- (d) The headings of the various subdivisions hereof are for convenience of reference only and shall not affect the interpretation of any of the provisions hereof.
- (e) If any of the voting powers, designations, preferences or relative, participating, optional or other special rights of the Series A Preferred Stock, or qualifications, limitations or restrictions thereof set forth herein, is invalid, unlawful or incapable of being enforced by reason of any rule of law or public policy, all other voting powers, designations, preferences and relative, participating, optional and other special rights of Series A Preferred

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Stock, and qualifications, limitations and restrictions thereof set forth herein, which can be given effect without the invalid, unlawful or unenforceable voting powers, designations, preferences and relative, participating, optional and other special rights of Series A Preferred Stock, and qualifications, limitations and restrictions thereof, shall, nevertheless, remain in full force and effect, and no voting powers, designations, preferences or relative, participating, optional or other special rights of Series A Preferred Stock, and qualifications, limitations and restrictions thereof set forth herein, shall be deemed dependent upon any other such voting powers, designations, preferences and relative, participating, optional and other special rights of Series A Preferred Stock, and qualifications, limitations and restrictions thereof, unless so expressed herein.

(f) Any waiver by a Holder of a breach of any provision of this Certificate of Designation (or any related provision of the Certificate of Incorporation) shall not operate as or be construed to be a waiver of any other breach of such provision or of any breach of any other provision of this Certificate of Designation or the Certificate of Incorporation or a waiver by any other Holders. The failure of a Holder to insist upon strict adherence to any term of this Certificate of Designation (or any related term under the Certificate of Incorporation) on one or more occasions shall not be considered a waiver or deprive that party (or any other Holder) of the right thereafter to insist upon strict adherence to that term or any other term of this Certificate of Designation or the Certificate of Incorporation on any other occasion.

(g) Whenever possible, each provision hereof shall be interpreted in a manner as to be effective and valid under applicable law, but if any provision hereof is held to be prohibited by or invalid under applicable law, such provision shall be ineffective only to the extent of such prohibition or invalidity, without invalidating or otherwise adversely affecting the remaining provisions hereof. If a court of competent jurisdiction should determine that a provision hereof would be valid or enforceable if a period of time were extended or shortened or a particular percentage were increased or decreased, then such court may make such change as shall be necessary to render the provision in question effective and valid under applicable law. Any principles under applicable law requiring the construction of ambiguity against (i) the creation or expansion of preferential rights or (ii) the Person who has drafted the applicable provision shall not apply to any provision of this Certificate of Designation (or any related provision of the Certificate of Incorporation).



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IN WITNESS WHEREOF, the Company has caused this Certificate of Designation to be duly executed this 31<sup>st</sup> day of October, 2025.

QNITY ELECTRONICS, INC.

By: /s/ Jon D. Kemp  
Name: Jon D. Kemp  
Title: Chief Executive Officer

*[Signature Page to Series A Preferred Stock Certificate of Designation]*

**AMENDED AND RESTATED  
BYLAWS  
OF  
QNITY ELECTRONICS, INC.  
(a Delaware corporation)  
EFFECTIVE AS OF NOVEMBER 1, 2025**

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## TABLE OF CONTENTS

|                                                                 |           |
|-----------------------------------------------------------------|-----------|
| <b>ARTICLE I CAPITAL STOCK</b>                                  | <b>4</b>  |
| 1.1 Certificates                                                | 4         |
| 1.2 Record Ownership                                            | 4         |
| 1.3 Transfer of Record Ownership                                | 4         |
| 1.4 Lost Certificates                                           | 5         |
| 1.5 Transfer Agents; Registrars; Rules Respecting Certificates  | 5         |
| 1.6 Record Date                                                 | 5         |
| <b>ARTICLE II MEETINGS OF STOCKHOLDERS</b>                      | <b>5</b>  |
| 2.1 Annual Meeting                                              | 5         |
| 2.2 Special Meetings                                            | 5         |
| 2.3 Notice                                                      | 7         |
| 2.4 List of Stockholders                                        | 7         |
| 2.5 Quorum                                                      | 7         |
| 2.6 Organization                                                | 7         |
| 2.7 Voting                                                      | 8         |
| 2.8 Election of Directors                                       | 8         |
| 2.9 Inspectors of Election                                      | 9         |
| 2.10 Notification of Stockholder Nominations and Other Business | 9         |
| 2.11 Proxy Access for Director Nominations                      | 15        |
| <b>ARTICLE III BOARD OF DIRECTORS</b>                           | <b>25</b> |
| 3.1 Number and Qualifications                                   | 25        |
| 3.2 Term                                                        | 25        |
| 3.3 Resignation                                                 | 25        |
| 3.4 Vacancies                                                   | 25        |
| 3.5 Regular Meetings                                            | 25        |
| 3.6 Special Meetings                                            | 26        |
| 3.7 Notice of Special Meetings                                  | 26        |
| 3.8 Place of Meetings                                           | 26        |
| 3.9 Participation in Meetings by Other Communications Equipment | 26        |
| 3.10 Quorum                                                     | 26        |
| 3.11 Chairperson of the Board                                   | 26        |
| 3.12 Organization                                               | 26        |
| 3.13 Compensation of Directors                                  | 26        |
| 3.14 Action by Written Consent                                  | 27        |
| 3.15 Interested Transactions                                    | 27        |
| 3.16 Committees of the Board of Directors                       | 27        |
| <b>ARTICLE IV OFFICERS</b>                                      | <b>28</b> |
| 4.1 Positions and Election                                      | 28        |
| 4.2 Term                                                        | 28        |
| 4.3 Resignation                                                 | 28        |
| 4.4 Vacancies                                                   | 28        |
| 4.5 Chief Executive Officer                                     | 29        |
| 4.6 Business Presidents; Vice Presidents                        | 29        |
| 4.7 Secretary; Assistant Secretary                              | 29        |

---

|                                 |                                                                                          |    |
|---------------------------------|------------------------------------------------------------------------------------------|----|
| 4.8                             | Treasurer; Assistant Treasurer                                                           | 29 |
| 4.9                             | Delegation of Authority                                                                  | 29 |
| 4.10                            | Voting Securities Owned by the Company                                                   | 29 |
| ARTICLE V INDEMNIFICATION       |                                                                                          | 30 |
| 5.1                             | Mandatory Indemnification                                                                | 30 |
| 5.2                             | Permitted Indemnification                                                                | 30 |
| 5.3                             | Expenses Payable in Advance                                                              | 31 |
| 5.4                             | Judicial Determination of Mandatory Indemnification or Mandatory Advancement of Expenses | 31 |
| 5.5                             | Nonexclusivity                                                                           | 32 |
| 5.6                             | Insurance                                                                                | 32 |
| 5.7                             | Definitions                                                                              | 32 |
| 5.8                             | Survival                                                                                 | 32 |
| 5.9                             | Repeal, Amendment or Modification                                                        | 33 |
| ARTICLE VI MISCELLANEOUS        |                                                                                          | 33 |
| 6.1                             | Seal                                                                                     | 33 |
| 6.2                             | Waiver of Notice                                                                         | 33 |
| 6.3                             | Forum for Adjudication of Certain Disputes                                               | 33 |
| 6.4                             | Offices                                                                                  | 34 |
| 6.5                             | Fiscal Year                                                                              | 34 |
| 6.6                             | Contracts                                                                                | 34 |
| 6.7                             | Checks, Notes, Drafts, Etc.                                                              | 34 |
| 6.8                             | Dividends                                                                                | 34 |
| 6.9                             | Conflict with Applicable Law or Certificate of Incorporation                             | 35 |
| ARTICLE VII AMENDMENT OF BYLAWS |                                                                                          | 35 |
| 7.1                             | Amendment of Bylaws                                                                      | 35 |
| 7.2                             | Series A Preferred Stockholders                                                          | 35 |

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## ARTICLE I

### CAPITAL STOCK

- 1.1 Certificates.** Shares of the capital stock of Qnity Electronics, Inc. (the “Company”) may be certificated or uncertificated in accordance with the General Corporation Law of the State of Delaware (as it now exists or hereafter may be amended, the “DGCL”); provided, that, commencing on or prior to the date of these Amended and Restated Bylaws (these “Bylaws”), the shares of common stock, par value \$0.01 per share, of the Company shall be uncertificated, as provided by resolutions adopted by the Board of Directors of the Company (the “Board of Directors”, and each member thereof, a “Director”). To the extent any certificates are ever issued with respect to any class or series of a class of capital stock of the Company, every holder of stock represented by certificates shall be entitled to have a certificate, in such form as may be prescribed by law and the Board of Directors, signed in the name of the Company by the Chairperson of the Board of Directors (the “Chairperson of the Board”) or the Chief Executive Officer or a Business President or a Vice President, and by the Treasurer or an Assistant Treasurer or the Secretary or an Assistant Secretary of the Company, representing the number of shares registered in certificate form held by such holder. Any or all the signatures on a certificate may be a facsimile. In case any officer, transfer agent or registrar who has signed or whose facsimile signature has been placed upon a certificate shall have ceased to be such officer, transfer agent or registrar before such certificate is issued, it may be issued by the Company with the same effect as if such person were such officer, transfer agent or registrar at the date of issue.
- 1.2 Record Ownership.** A record of the name and address of the holder of each certificate, the number of shares represented thereby and the date of issue thereof shall be made on the Company’s books. The Company shall be entitled to treat the holder of record of any share of stock as the holder in fact thereof, and accordingly shall not be bound to recognize any equitable or other claim to or interest in any share on the part of any other person, whether or not it shall have express or other notice thereof, except as required by the laws of the State of Delaware. If certificated, the certificates of each class or series of a class of stock shall be numbered consecutively.
- 1.3 Transfer of Record Ownership.** Subject to applicable laws, transfers of shares of stock of the Company shall be made on the books of the Company only by direction of the registered holder thereof or such person’s attorney, lawfully constituted in writing, and, if such shares are represented by a certificate, only upon the surrender to the Company or its transfer agent or other designated agent of the certificate representing such shares properly endorsed or accompanied by a properly executed written assignment of the shares evidenced thereby, which certificate shall be canceled before a new certificate or uncertificated shares are issued.

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- 1.4 Lost Certificates.** Any person claiming a stock certificate in lieu of one lost, stolen or destroyed shall give the Company an affidavit as to such person's ownership of the certificate and of the facts which go to prove its loss, theft or destruction. Such person shall also, if required by policies adopted by the Board of Directors, give the Company a bond sufficient to indemnify the Company against any claim that may be made against it on account of the alleged loss of the certificate or the issuance of a new certificate or of uncertificated shares.
- 1.5 Transfer Agents; Registrars; Rules Respecting Certificates.** The Board of Directors may appoint, or authorize any officer or officers to appoint, one or more transfer agents and one or more registrars. The Board of Directors may make such further rules and regulations as it may deem expedient concerning the issue, transfer and registration of shares of stock of the Company.
- 1.6 Record Date.** The Board of Directors may fix in advance a date, not more than sixty (60) days or less than ten (10) days preceding the date of an annual or special meeting of stockholders and not more than sixty (60) days preceding the date of payment of a dividend or other distribution, allotment of rights or the date when any change, conversion or exchange of capital stock shall go into effect or for the purpose of any other lawful action, as the record date for determination of the stockholders entitled to notice of and to vote at any such meeting and any adjournment thereof, or to receive any such dividend or other distribution or allotment of rights, or to exercise the rights in respect of any such change, conversion or exchange of capital stock, or to participate in any such other lawful action. Such stockholders and only such stockholders as shall be stockholders of record on the date so fixed shall be entitled to such notice of and to vote at such meeting and any adjournment thereof, or to receive such dividend or other distribution or allotment of rights, or to exercise such rights, or to participate in any such other lawful action, as the case may be, notwithstanding any transfer of any stock on the books of the Company after any such record date fixed as aforesaid.

## ARTICLE II

### MEETINGS OF STOCKHOLDERS

- 2.1 Annual Meeting.** The annual meeting of stockholders for the election of Directors and the transaction of such other business as may properly be brought before the meeting shall be held annually on a date and at a time and place, within or outside of the State of Delaware, as determined by the Board of Directors. The Board of Directors may postpone, reschedule or adjourn any previously scheduled annual meeting of stockholders.
- 2.2 Special Meetings.**
- (a) Purpose. Special meetings of stockholders for any purpose or purposes (i) may be called by the Board of Directors, pursuant to a resolution adopted by a majority of the entire Board of Directors upon motion of a Director, and (ii) from and including the 2028 annual meeting of stockholders, shall be called by the Chairperson of the Board or the Secretary of the Company upon a written request from stockholders of the Company holding at least fifteen percent (15%) of the voting power of all the shares of capital stock of the Company then entitled to

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vote on the matter or matters to be brought before the proposed special meeting that complies with the procedures for calling a special meeting of stockholders as set forth in these Bylaws. Any such request by stockholders shall (A) be delivered to, or mailed to and received by, the Secretary of the Company at the Company's principal executive offices, (B) be signed by each stockholder, or a duly authorized agent of such stockholder, requesting the special meeting, (C) set forth the purpose or purposes of the meeting and (D) include the information required by Section 2.10 as applicable, and a representation by such stockholder(s) that within five (5) business days after the record date for any such special meeting, it will provide such information as of the record date for such special meeting to the extent not previously provided.

- (b) Date, Time and Place. A special meeting, whether called by the Board of Directors or called at the request of stockholders shall be held at such date, time and place, within or outside of the State of Delaware, as determined by the Board of Directors; provided, however, that the date of any such special meeting shall be not more than ninety (90) days after the request to call the special meeting by one or more stockholders who satisfy the requirements of this Section 2.2 is delivered to or received by the Secretary, unless a later date is required in order to allow the Company to file the information required under Item 8 (or any comparable or successor provision) of Schedule 14A under the Securities Exchange Act of 1934, as amended (the "Exchange Act"), if applicable. Notwithstanding the foregoing, a special meeting requested by stockholders shall not be held if: (i) the stated business to be brought before the special meeting is not a proper subject for stockholder action under applicable law or (ii) the Board of Directors has called or calls for an annual meeting of stockholders to be held within ninety (90) days after the request for the special meeting is delivered to or received by the Secretary and the Board of Directors determines in good faith that the business of such annual meeting includes (among any other matters properly brought before such annual meeting) the business specified in the stockholders' request. A stockholder may revoke a request for a special meeting at any time by written revocation delivered to, or mailed to and received by, the Secretary. If, at any time after receipt by the Secretary of the Company of a proper request for a special meeting of stockholders, there are no longer valid requests from stockholders holding in the aggregate at least the requisite number of shares entitling the stockholders to request the calling of a special meeting, whether because of revoked requests or otherwise, the Board of Directors, in its discretion, may cancel the special meeting (or, if the special meeting has not yet been called, may direct the Chairperson of the Board or the Secretary of the Company not to call such a meeting).
- (c) Conduct of Meeting. At any such special meeting, only such business may be transacted as is set forth in the notice of special meeting. Business transacted at a special meeting requested by stockholders shall be limited to the matters described in the special meeting request; provided, however, that nothing herein shall prohibit the Board of Directors from submitting matters to the stockholders at any special meeting requested by stockholders. If none of the stockholders who

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submitted the request for a special meeting appears or sends a qualified representative to present the nominations proposed to be presented or other business proposed to be conducted at the special meeting, the Company need not present such nominations or other business for a vote at such meeting. The chairperson of a special meeting shall determine all matters relating to the conduct of the meeting, including, but not limited to, determining whether any nomination or other item of business has been properly brought before the meeting in accordance with these Bylaws, and if the chairperson of the meeting should so determine and declare that any nomination or other item of business has not been properly brought before the special meeting, then such business shall not be transacted at such meeting.

- 2.3 Notice.** Notice (either written or as otherwise permitted by the DGCL) of each meeting of stockholders, whether annual or special, stating the date, time, place and, with respect to a special meeting, purpose thereof, shall be distributed (either by the U.S. Postal Service or as otherwise permitted by the DGCL) by the Secretary or Assistant Secretary not less than ten (10) days nor more than sixty (60) days before the date of such meeting to every stockholder entitled to vote thereat.
- 2.4 List of Stockholders.** A complete list of the stockholders entitled to vote at any meeting of stockholders, arranged in alphabetical order, and showing the address of each stockholder and the number of shares registered in the name of each stockholder, shall be prepared by the Secretary at least ten (10) days before every meeting of stockholders and shall be open to the examination of any stockholder for any purpose germane to the meeting for a period of at least ten (10) days before the meeting during ordinary business hours at the principal place of business of the Company.
- 2.5 Quorum.** The holders of a majority of the voting power of all of the shares of capital stock of the Company then entitled to vote with respect to the purposes for which the meeting is called, present in person or represented by proxy, shall constitute a quorum, except as otherwise required by the DGCL. If a quorum does not exist, the chairperson of the meeting or a majority in interest of the stockholders present in person or represented by proxy may adjourn the meeting from time to time without notice other than announcement at the meeting, until a quorum shall be obtained. At any such adjourned meeting at which there is a quorum, any business may be transacted that might have been transacted at the meeting originally called.
- 2.6 Organization.** The Chairperson of the Board, or, in the absence of the Chairperson of the Board, the independent Lead Director (if any), or, in the absence of the Chairperson and independent Lead Director, a member of the Board of Directors selected by the majority of the entire Board of Directors, shall preside at meetings of stockholders (including special meetings of stockholders) as chairperson of the meeting and shall determine the order of business for such meeting. The Secretary of the Company shall act as secretary at all meetings of stockholders, but in the absence of the Secretary, the chairperson of the meeting may appoint a secretary of the meeting. Rules governing the procedures and conduct of meetings of stockholders shall be determined by the chairperson of the meeting.



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**2.7 Voting.** Subject to all of the rights of the preferred stock provided for by resolution or resolutions of the Board of Directors pursuant to Article IV of the Amended and Restated Certificate of Incorporation (as the same may be amended and/or restated from time to time, the “Certificate of Incorporation”) or by the DGCL, each stockholder entitled to vote at a meeting shall be entitled to one vote, in person or by proxy (either written or as otherwise permitted by the DGCL), for each voting share held of record by such stockholder. The votes for the election of Directors and, upon the demand of any stockholder the vote upon any matter before the meeting, shall be by written ballot. Except as otherwise required by the DGCL or as specifically provided for in the Certificate of Incorporation or these Bylaws, in any question or matter brought before any meeting of stockholders (other than the election of Directors), the affirmative vote of the holders of voting shares present in person or by proxy representing a plurality of the votes actually cast on any such question or matter at a meeting where there is a quorum shall be the act of the stockholders.

**2.8 Election of Directors.**

- (a) Directors shall be elected by the vote of a majority of the votes cast at a meeting where there is a quorum; except that, notwithstanding the foregoing, Directors shall be elected by a plurality of the votes cast at a meeting where there is a quorum if as of the record date for such meeting the number of nominees exceeds the number of Directors to be elected. For purposes of the foregoing sentence, a majority of the votes cast means that the number of shares voted “for” a Director nominee must exceed the number of shares voted “against” that Director nominee.
- (b) Promptly following the annual meeting of stockholders at which a Director candidate is elected or reelected as a Director, such person shall submit an irrevocable resignation, that will be effective upon (i) the failure to receive the required vote at the next annual meeting of the stockholders at which such Director faces reelection and (ii) the Board of Directors acceptance of such resignation in accordance with the procedures specified in the Company’s Corporate Governance Guidelines.
- (c) To be eligible to be a nominee for election or reelection as a Director, and as a qualification for service as a Director, a person must deliver (in accordance with the time periods prescribed for delivery of notice under Section 2.10 or Section 2.11, as applicable) to the Secretary at the principal executive offices of the Company (i) a written representation and agreement that such person (A) is not and will not become a party to (1) any agreement, arrangement or understanding with, and has not given any commitment or assurance to, any person or entity as to how such person, if elected as a Director, will act or vote on any issue or question (a “Voting Commitment”) that has not been disclosed to the Company in such representation and agreement or (2) any Voting Commitment that could limit or interfere with such person’s ability to comply, if elected as a Director, with such person’s fiduciary duties under applicable law, (B) is not and will not become a party to any agreement, arrangement or understanding with any person or entity other than the Company with respect to any direct or indirect

compensation, reimbursement or indemnification in connection with such person's nomination or service or action as a Director that has not been disclosed to the Company in such representation and agreement, (C) will comply with the requirements of Section 2.8(b), (D) would be in compliance, if elected as a Director, and will comply with the Company's Director Code of Conduct (including, without limitation, the Director confidentiality policies therein) and the Company's Corporate Governance Guidelines, stock ownership and trading policies and guidelines and any other policies or guidelines of the Company applicable to Directors and (E) will make such other acknowledgments, enter into such agreements and provide such information as the Board of Directors requires of all Directors, including promptly submitting all completed and signed questionnaires required of the Company's Directors; and (ii) an executed copy of any and all Director resignation letter(s) referenced in the "Compliance and Reporting" section of the Company's Director Code of Conduct.

**2.9 Inspectors of Election.** In advance of any meeting of stockholders, the Board of Directors or the chairperson of the meeting shall appoint one or more inspectors to act at the meeting and make a written report thereof. The chairperson of the meeting may designate one or more persons as alternate inspectors to replace any inspector who fails or is unable to act. Each inspector, before entering upon the discharge of his or her duties, shall take and sign an oath faithfully to execute the duties of inspector with strict impartiality and according to the best of his or her ability. At each meeting of stockholders, the inspector(s) shall ascertain the number of shares outstanding and the voting power of each, determine the shares represented at the meeting and the validity of proxies and ballots, count all votes and ballots, determine and retain for a reasonable period a record of the disposition of any challenges made to any determination by the inspector(s), and certify the inspectors' determination of the number of shares represented at the meeting and the count of all votes and ballots. The inspector(s) may appoint or retain other persons or entities to assist the inspector(s) in the performance of the duties of the inspector(s). Any report or certificate made by the inspector(s) shall be prima facie evidence of the facts stated therein.

**2.10 Notification of Stockholder Nominations and Other Business.**

(a) Annual Meeting.

- (i) Nominations of persons for election to the Board of Directors and the proposal of business other than nominations to be considered by the stockholders may be made at an annual meeting of stockholders only (A) by or at the direction of the Board of Directors, (B) by any stockholder of the Company who is a stockholder of record at the time the notice provided for in this Section 2.10 is delivered to, or mailed to and received by, the Secretary of the Company, who is entitled to vote at such annual meeting of stockholders and who complies with (x) the notice procedures and disclosure requirements set forth in this Section 2.10 and (y) in the case of nominations, the requirements of Rule 14a-19 under the Exchange Act or (C) in the case of stockholder nominations to be included in the Company's proxy statement for an annual meeting of stockholders, by an Eligible Stockholder (as defined below) who satisfies the notice, ownership and other requirements of Section 2.11.

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- (ii) For nominations or other business to be properly brought before an annual meeting by a stockholder pursuant to clause (B) of Section 2.10(a)(i), such stockholder must have given timely written notice thereof in proper form to the Secretary of the Company and such proposed business must be a proper subject for stockholder action. To be timely, a stockholder's notice must be delivered to, or mailed to and received by, the Secretary at the principal executive offices of the Company: not later than the close of business on the ninetieth (90th) day or earlier than the close of business on the one hundred twentieth (120th) day prior to the anniversary date on which the Company first distributed its proxy materials for the prior year's annual meeting of stockholders of the Company; provided, however, that in the event that the annual meeting of stockholders is called for a date that is not within thirty (30) days before or after the first anniversary of the prior year's annual meeting of stockholders, notice by the stockholder in order to be timely must be so delivered, or so mailed and received, not earlier than the close of business on the one hundred twentieth (120th) day prior to such annual meeting and not later than the close of business on the later of (A) the ninetieth (90th) day prior to such annual meeting and (B) the tenth (10th) day following the date on which public disclosure (as defined below) of the date of such annual meeting is first made by the Company. In no event shall the public disclosure of an adjournment or postponement of an annual meeting of stockholders commence a new time period (or extend any time period) for the giving of a stockholder's notice as described above. Such stockholder's notice shall set forth:
- (A) as to each person, if any, whom such stockholder proposes to nominate for election or reelection as a Director: (1) all information relating to such person that would be required to be disclosed in a proxy statement soliciting proxies for the election of such nominee as a Director in an election contest (even if an election contest is not involved) or that is otherwise required to be disclosed, under Section 14(a) of the Exchange Act and the rules and regulations promulgated thereunder, (2) the written consent of the nominee to being named as a nominee in any proxy statement relating to the annual meeting or special meeting, as applicable, and to serving as a Director if elected and a completed and signed representation and agreement as required by Section 2.8(c) and (3) any information that such person would be required to disclose pursuant to clause (ii)(C) of this Section 2.10(a), if such person were a stockholder purporting to make a nomination or propose business pursuant thereto;

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- (B) as to any other business that such stockholder proposes to bring before the meeting: (1) a brief description of the proposed business desired to be brought before the meeting, (2) the text of the proposal or proposed business (including the text of any resolutions proposed for consideration and in the event that such business includes a proposal to amend the Bylaws, the language of the proposed amendment), (3) the reasons for conducting such business at the meeting, (4) any substantial interest (within the meaning of Item 5 of Schedule 14A under the Exchange Act) in such business of such stockholder and the beneficial owner (within the meaning of Section 13(d) of the Exchange Act), if any, on whose behalf the business is being proposed, (5) any other information relating to such stockholder and beneficial owner, if any, on whose behalf the proposal is being made, required to be disclosed in a proxy statement or other filings required to be made in connection with solicitations of proxies for the proposal and pursuant to and in accordance with Section 14(a) of the Exchange Act and the rules and regulations promulgated thereunder, (6) a description of all agreements, arrangements or understandings between or among such stockholder, or any affiliates or associates of such stockholder, and any other person or persons (including their names) in connection with the proposal of such business and any material interest of such stockholder or any affiliates or associates of such stockholder, in such business, including any anticipated benefit therefrom to such stockholder, or any affiliates or associates of such stockholder and (7) the information required by Section 2.10(a)(ii)(A) above; and
- (C) as to the stockholder giving the notice and the beneficial owner, if any, on whose behalf the nomination is made or the other business is proposed: (1) the name and address of such stockholder, as they appear on the Company's books, and the name and address of the beneficial owner, if any, on whose behalf the nomination is made, (2) the class and number of shares of capital stock of the Company which are beneficially owned (as defined below) and owned of record by such stockholder and owned by the beneficial owner, if any, on whose behalf the nomination is made as of the date of the notice, and a representation that such stockholder shall notify the Company in writing within five (5) business days after the record date for such meeting of the class and number of shares of capital stock of the Company beneficially owned by such stockholder or beneficial owner as of the record date for the meeting, (3) a written representation (from the stockholder giving notice) that such stockholder is the holder of record of shares of the Company entitled to vote at the meeting and intends to appear in person or by proxy at the meeting to propose such nomination or nominations or other business specified in the notice, (4) a description of any

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agreement, arrangement or understanding with respect to the nomination or other business between or among such stockholder or the beneficial owner, if any, on whose behalf the nomination is made and any other person, including without limitation any agreements that would be required to be disclosed pursuant to Item 5 or Item 6 of Exchange Act Schedule 13D (regardless of whether the requirement to file a Schedule 13D is applicable to such stockholder or the beneficial owner, if any, on whose behalf the nomination is made) and a representation that such stockholder shall notify the Company in writing within five (5) business days after the record date for such meeting of any such agreement, arrangement or understanding in effect as of the record date for the meeting, (5) a description of any agreement, arrangement or understanding (including any derivative or short positions, profit interests, options, hedging transactions, and borrowed or loaned shares) that has been entered into as of the date of such stockholder's notice by, or on behalf of, such stockholder or the beneficial owner, if any, on whose behalf the nomination is made or any of their affiliates or associates, the effect or intent of which is to mitigate loss to, manage risk or benefit of share price changes of any class of the Company's capital stock for, or maintain, increase or decrease the voting power of such stockholder or the beneficial owner, if any, on whose behalf the nomination is made or any of their affiliates or associates with respect to shares of stock of the Company and a representation that such stockholder shall notify the Company in writing within five (5) business days after the record date for such meeting of any such agreement, arrangement or understanding in effect as of the record date for the meeting, (6) in the case of a nomination, a representation that such stockholder intends to deliver a proxy statement and/or form of proxy to holders of at least 67% of the voting power of the Company's outstanding capital stock entitled to vote in the election of Directors and (7) in the case of a nomination, all other information required under Rule 14a-19 under the Exchange Act.

- (iii) The Company may require any proposed nominee to furnish such other information as may reasonably be required by the Company to determine the eligibility of such proposed nominee to serve as a Director, including information relevant to a determination whether such proposed nominee can be considered an independent Director or that could be material to a reasonable stockholders' understanding of the independence, or lack thereof.

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- (iv) A stockholder providing a notice of nomination shall further update and supplement such notice to provide evidence that the stockholder has solicited proxies from holders of at least 67% of the voting power of the Company's outstanding capital stock entitled to vote in the election of Directors, and such update and supplement be delivered to, or mailed to and received by, the Secretary at the principal executive offices of the Company not later than five (5) business days after the stockholder files a definitive proxy statement in connection with the annual meeting or special meeting of stockholders, as applicable.
- (v) This Section 2.10(a) shall not apply to a proposal proposed to be made by a stockholder if such stockholder has notified the Company of his, her or its intention to present the proposal at an annual or special meeting of stockholders only pursuant to and in compliance with Rule 14a-8 under the Exchange Act and such proposal has been included in a proxy statement that has been prepared by the Company to solicit proxies for such meeting.
- (b) Special Meeting. Only such business shall be conducted at a special meeting of stockholders as shall have been brought before the meeting pursuant to the Company's notice of meeting. Nominations of persons for election to the Board of Directors may be made at a special meeting of stockholders called by the Board of Directors at which Directors are to be elected pursuant to the Company's notice of meeting (i) by or at the direction of the Board of Directors or (ii) provided that the Board of Directors has determined that Directors shall be elected at such meeting, by any stockholder of the Company who is a stockholder of record at the time the notice provided for in this Section 2.10(b) is delivered to, or mailed to and received by, the Secretary of the Company and at the time of the special meeting, who is entitled to vote at the special meeting and upon such election, and who complies with (x) the notice procedures set forth in this Section 2.10 as to such nomination and (y) the requirements of Rule 14a-19 under the Exchange Act. In the event the Board of Directors calls a special meeting of stockholders for the purpose of electing one or more Directors to the Board of Directors, any such stockholder entitled to vote in such election of Directors may nominate a person or persons (as the case may be) for election to such position(s) as specified in the Company's notice of meeting, if the notice required by Section 2.10(a)(ii) shall be delivered to, or mailed to and received by, the Secretary at the principal executive offices of the Company not earlier than the close of business on the one hundred twentieth (120th) day prior to such special meeting and not later than the close of business on the later of the ninetieth (90th) day prior to such special meeting or the tenth (10th) day following the day on which public disclosure of the date of the special meeting and of the nominees proposed by the Board of Directors to be elected at such meeting is first made by the Company. Such stockholder's notice shall set forth the information required by Section 2.10(a)(ii) and Section 2.10(a)(iii) and be updated and supplemented as required by Section 2.10(a)(iv). In no event shall the public announcement of an adjournment or postponement of a special meeting of stockholders commence a new time period (or extend any time period) for the giving of a stockholder's notice as described above.
- (c) General.

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- (i) Only such persons who are nominated in accordance with the procedures set forth in this Section 2.10 or Section 2.11 shall be eligible to be elected at any meeting of stockholders of the Company to serve as Directors and only such other business shall be conducted at a meeting of stockholders as shall have been properly brought before the meeting in accordance with the procedures set forth in this Section 2.10 or Section 2.11, as applicable. The chairperson of the special meeting, as determined pursuant to Section 2.6, shall have the power and duty to determine whether a nomination or any other business proposed to be brought before the meeting was made or proposed, as the case may be, in accordance with the procedures set forth in this Section 2.10. If any proposed nomination or other business was not made or proposed in compliance with this Section 2.10 or Section 2.11, as applicable, or the solicitation in support of the nominees other than the Company's nominees was not conducted in compliance with Rule 14a-19 under the Exchange Act then, except as otherwise provided by law, the chairperson of the meeting shall have the power and duty to declare that such nomination shall be disregarded or that such proposed other business shall not be transacted. Notwithstanding the foregoing provisions of this Section 2.10, unless otherwise required by law, if the stockholder does not provide the information required under clauses (2), (4) and (5) of Section 2.10(a)(ii)(C) to the Company within five (5) business days following the record date for an annual or special meeting of stockholders, or if the stockholder does not provide the update and supplement required by Section 2.10(a)(iv) within five (5) business days of filing a definitive proxy statement, or if the stockholder (or a qualified representative of the stockholder) does not appear at the annual or special meeting of stockholders of the Company to present a nomination or proposed other business, such nomination shall be disregarded and such proposed other business shall not be transacted, notwithstanding that proxies in respect of such vote may have been received by the Company. For purposes of this Section 2.10, to be considered a qualified representative of the stockholder, a person must be a duly authorized officer, manager or partner of such stockholder or authorized by a writing executed by such stockholder (or a reliable reproduction or electronic transmission of such writing) delivered to the Company prior to the making of such nomination or proposal at such meeting by such stockholder stating that such person is authorized to act for such stockholder as proxy at the meeting of stockholders.
- (ii) For purposes of this Section 2.10, "public disclosure" shall mean disclosure in a press release reported by the Dow Jones News Service, Associated Press, or comparable national news service or any document publicly filed by the Company with the Securities and Exchange Commission (the "Commission") pursuant to Section 13, 14 or 15(d) of the Exchange Act. For purposes of clause (2) of Section 2.10(a)(ii)(C), shares shall be treated as "beneficially owned" by a person if the person beneficially owns such shares, directly or indirectly, for purposes of

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Section 13(d) of the Exchange Act and Regulations 13D and 13G thereunder or has or shares pursuant to any agreement, arrangement or understanding (whether or not in writing): (A) the right to acquire such shares (whether such right is exercisable immediately or only after the passage of time or the fulfillment of a condition or both), (B) the right to vote such shares, alone or in concert with others and/or (C) investment power with respect to such shares, including the power to dispose of, or to direct the disposition of, such shares.

## **2.11 Proxy Access for Director Nominations.**

- (a) Eligibility. Subject to the terms and conditions of these Bylaws, in connection with an annual meeting of stockholders at which Directors are to be elected, the Company (A) shall include in its proxy statement and on its form of proxy the names of, and (B) shall include in its proxy statement the “Additional Information” (as defined below) relating to, a number of nominees specified pursuant to Section 2.11(b)(i) (the “Authorized Number”) for election to the Board of Directors submitted pursuant to this Section 2.11 (each, a “Stockholder Nominee”), if:
  - (i) the Stockholder Nominee satisfies the eligibility requirements in this Section 2.11;
  - (ii) the Stockholder Nominee is identified in a timely notice (the “Stockholder Notice”) that satisfies this Section 2.11 and is delivered by a stockholder that qualifies as, or is acting on behalf of, an Eligible Stockholder (as defined below); and
  - (iii) the Eligible Stockholder satisfies the requirements in this Section 2.11 and expressly elects at the time of the delivery of the Stockholder Notice to have the Stockholder Nominee included in the Company’s proxy materials.
- (b) Definitions.
  - (i) The maximum number of Stockholder Nominees appearing in the Company’s proxy materials with respect to an annual meeting of stockholders (the “Authorized Number”) shall not exceed the greater of (x) two or (y) twenty percent (20%) of the number of Directors in office as of the last day on which a Stockholder Notice may be delivered pursuant to this Section 2.11 with respect to the annual meeting of stockholders, or if such amount is not a whole number, the closest whole number (rounding down) below twenty percent (20%); provided that the Authorized Number shall be reduced by (A) the number of individuals (if any) included in the Company’s proxy materials as nominees recommended by the Board of Directors pursuant to an agreement, arrangement or other understanding with a stockholder or group of stockholders (other than any such



agreement, arrangement or other understanding entered into in connection with an acquisition of stock from the Company by such stockholder or group of stockholders) and (B) the number of nominees (if any) who were previously elected to the Board of Directors as Stockholder Nominees at any of the preceding two (2) annual meetings of stockholders and who are nominated for election at the annual meeting of stockholders by the Board of Directors as a Director nominee. For purposes of determining when the Authorized Number has been reached, any individual nominated by an Eligible Stockholder for inclusion in the Company's proxy materials pursuant to this Section 2.11 whose nomination is subsequently withdrawn or whom the Board of Directors decides to nominate for election to the Board of Directors shall be counted as one of the Stockholder Nominees. In the event that one or more vacancies for any reason occurs after the date of the Stockholder Notice but before the annual meeting of stockholders and the Board of Directors resolves to reduce the size of the Board of Directors in connection therewith, the Authorized Number shall be calculated based on the number of Directors in office as so reduced.

- (ii) To qualify as an "Eligible Stockholder," a stockholder or a group as described in this Section 2.11 must:
- (A) Own and have Owned (as defined below), continuously for at least three (3) years as of the date of the Stockholder Notice, a number of shares (as adjusted to account for any stock dividend, stock split, subdivision, combination, reclassification or recapitalization of shares of the Company that are entitled to vote generally in the election of Directors) that represents at least three percent (3%) of the outstanding shares of the Company that are entitled to vote generally in the election of Directors as of the date of the Stockholder Notice (the "Required Shares"); and
  - (B) thereafter continue to Own the Required Shares through such annual meeting of stockholders.

For purposes of satisfying the ownership requirements of this Section 2.11(b)(ii), a group of not more than twenty (20) stockholders and/or beneficial owners may aggregate the number of shares of the Company that are entitled to vote generally in the election of Directors that each group member has individually Owned continuously for at least three (3) years as of the date of the Stockholder Notice if all other requirements and obligations for an Eligible Stockholder set forth in this Section 2.11 are satisfied by and as to each stockholder or beneficial owner comprising the group whose shares are aggregated. No shares may be attributed to more than one Eligible Stockholder, and no stockholder or beneficial owner, alone or together with any of its affiliates, may individually or as a member of a group qualify as or constitute more than one Eligible Stockholder under this Section 2.11. A group of any two or more funds

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shall be treated as only one stockholder or beneficial owner for this purpose if they are (1) under common management and investment control, (2) under common management and funded primarily by a single employer or (3) part of a family of funds, meaning a group of publicly offered investment companies (whether organized in the U.S. or outside the U.S.) that hold themselves out to investors as related companies for purposes of investment and investor services. For purposes of this Section 2.11, the term “affiliate” or “affiliates” shall have the meanings ascribed thereto under the rules and regulations promulgated under the Exchange Act.

(iii) For purposes of this Section 2.11:

- (A) A stockholder or beneficial owner is deemed to “Own” only those outstanding shares of the Company that are entitled to vote generally in the election of Directors as to which the person possesses both (1) the full voting and investment rights pertaining to the shares and (2) the full economic interest in (including the opportunity for profit and risk of loss on) such shares, except that the number of shares calculated in accordance with clauses (1) and (2) shall not include any shares (a) sold by such person in any transaction that has not been settled or closed, (b) borrowed by the person for any purposes or purchased by the person pursuant to an agreement to resell, or (c) subject to any option, warrant, forward contract, swap, contract of sale, or other derivative or similar agreement entered into by the person, whether the instrument or agreement is to be settled with shares or with cash based on the notional amount or value of outstanding shares of the Company that are entitled to vote generally in the election of Directors, if the instrument or agreement has, or is intended to have, or if exercised would have, the purpose or effect of (x) reducing in any manner, to any extent or at any time in the future, the person’s full right to vote or direct the voting of the shares, and/or (y) hedging, offsetting or altering to any degree any gain or loss arising from the full economic ownership of the shares by the person. The terms “Owned,” “Owning” and other variations of the word “Own,” when used with respect to a stockholder or beneficial owner, have correlative meanings. For purposes of clauses (a) through (c), the term “person” includes its affiliates.
- (B) A stockholder or beneficial owner “Owns” shares held in the name of a nominee or other intermediary so long as the person retains both (1) the full voting and investment rights pertaining to the shares and (2) the full economic interest in the shares. The person’s Ownership of shares is deemed to continue during any period in which the person has delegated any voting power by means of a proxy, power of attorney, or other instrument or arrangement that is revocable at any time by the stockholder.

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- (C) A stockholder or beneficial owner's Ownership of shares shall be deemed to continue during any period in which the person has loaned the shares if the person has the power to recall the loaned shares on not more than five (5) business days' notice.
  - (iv) For purposes of this Section 2.11, the "Additional Information" referred to in Section 2.11(a), that the Company will include in its proxy statement is:
    - (A) the information set forth in the Schedule 14N provided with the Stockholder Notice concerning each Stockholder Nominee and the Eligible Stockholder that is required to be disclosed in the Company's proxy statement by the applicable requirements of the Exchange Act and the rules and regulations thereunder; and
    - (B) if the Eligible Stockholder so elects, a written statement of the Eligible Stockholder (or, in the case of a group, a written statement of the group), not to exceed five hundred words, in support of its Stockholder Nominee(s), which must be provided at the same time as the Stockholder Notice for inclusion in the Company's proxy statement for the annual meeting of stockholders (the "Statement").

Notwithstanding anything to the contrary contained in this Section 2.11, the Company may omit from its proxy materials any information or Statement that it, in good faith, believes is untrue in any material respect (or omits a material fact necessary in order to make the statements made, in light of the circumstances under which they are made, not misleading) or would violate any applicable law, rule, regulation or listing standard. Nothing in this Section 2.11 shall limit the Company's ability to solicit against and include in its proxy materials its own statements relating to any Eligible Stockholder or Stockholder Nominee.

(c) Stockholder Notice and Other Informational Requirements.

- (i) The Stockholder Notice shall set forth all information, representations and agreements required under Section 2.10(a)(ii) above (other than those required under Section 2.10(a)(ii)(C)(6) and (7)), including the information required with respect to (1) any nominee for election as a Director, (2) any stockholder giving notice of an intent to nominate a candidate for election, and (3) any stockholder, beneficial owner or other person on whose behalf the nomination is made under this Section 2.11. In addition, such Stockholder Notice shall include:
  - (A) a copy of the Schedule 14N that has been or concurrently is filed with the Commission under the Exchange Act;

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- (B) a written statement of the Eligible Stockholder (and in the case of a group, the written statement of each stockholder or beneficial owner whose shares are aggregated for purposes of constituting an Eligible Stockholder), which statement(s) shall also be included in the Schedule 14N filed with the Commission, (1) setting forth and certifying to the number of shares of the Company entitled to vote generally in the election of Directors that the Eligible Stockholder Owns and has Owned (as defined in Section 2.11(b)(iii)) continuously for at least three (3) years as of the date of the Stockholder Notice, (2) agreeing to continue to Own such shares through the annual meeting of stockholders and (3) indicating whether it intends to continue to Own such shares for at least one year following the annual meeting of stockholders;
- (C) the written agreement of the Eligible Stockholder (and in the case of a group, the written agreement of each stockholder or beneficial owner whose shares are aggregated for purposes of constituting an Eligible Stockholder) addressed to the Company, setting forth the following additional agreements, representations and warranties:
- (1) it shall provide (a) within five (5) business days after the date of the Stockholder Notice, one or more written statements from the record holder(s) of the Required Shares and from each intermediary through which the Required Shares are or have been held, in each case during the requisite three-year holding period, specifying the number of shares that the Eligible Stockholder Owns, and has Owned continuously in compliance with this Section 2.11, (b) within five (5) business days after the record date for the annual meeting of stockholders both the information required under Section 2.10(a)(ii)(C) (other than that required under Section 2.10(a)(ii)(C)(6) and (7)) and notification in writing verifying the Eligible Stockholder's continuous Ownership of the Required Shares, in each case, as of such date, and (c) immediate notice to the Company if the Eligible Stockholder ceases to own any of the Required Shares prior to the annual meeting of stockholders;
- (2) it (a) acquired the Required Shares in the ordinary course of business and not with the intent to change or influence control at the Company, and does not presently have this intent, (b) has not nominated and shall not nominate for election to the Board of Directors at the annual meeting of stockholders any person other than the Stockholder Nominee(s) being nominated pursuant to this Section 2.11, (c) has not engaged and shall not engage in, and has not been and shall not be a participant (as defined in Item 4 of Exchange Act Schedule 14A) in, a solicitation within the meaning of Exchange Act Rule 14a-1(1),

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in support of the election of any individual as a Director at the annual meeting of stockholders other than its Stockholder Nominee(s) or any nominee(s) of the Board of Directors, and (d) shall not distribute to any stockholder any form of proxy for the annual meeting of stockholders other than the form distributed by the Company; and

- (3) it will (a) assume all liability stemming from any legal or regulatory violation arising out of the Eligible Stockholder's communications with the stockholders of the Company or out of the information that the Eligible Stockholder provided to the Company, (b) indemnify and hold harmless the Company and each of its Directors, officers and employees individually against any liability, loss or damages in connection with any threatened or pending action, suit or proceeding, whether legal, administrative or investigative, against the Company or any of its Directors, officers or employees arising out of the Eligible Stockholder's communications with the stockholders of the Company or out of the information that the Eligible Stockholder provided to the Company, (c) comply with all laws, rules, regulations and listing standards applicable to its nomination or any solicitation in connection with the annual meeting of stockholders, (d) file with the Commission any solicitation or other communication by or on behalf of the Eligible Stockholder relating to the Company's annual meeting of stockholders, one or more of the Company's Directors or Director nominees or any Stockholder Nominee, regardless of whether the filing is required under Regulation 14A of the Exchange Act, or whether any exemption from filing is available for the materials under Regulation 14A of the Exchange Act, and (e) at the request of the Company, promptly, but in any event within five (5) business days after such request (or by the day prior to the day of the annual meeting of stockholders, if earlier), provide to the Company such additional information as reasonably requested by the Company; and

- (D) in the case of a nomination by a group, the designation by all group members of one group member that is authorized to act on behalf of all members of the group with respect to the nomination and matters related thereto, including withdrawal of the nomination, and the written agreement, representation, and warranty of the Eligible Stockholder that it shall provide, within five (5) business days after the date of the Stockholder Notice, documentation reasonably satisfactory to the Company demonstrating that the number of stockholders and/or beneficial owners within such group does not exceed twenty (20), including whether a group of funds qualifies as one stockholder or beneficial owner within the meaning of Section 2.11(b)(ii).

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All information provided pursuant to this Section 2.11(c)(i) shall be deemed part of the Stockholder Notice for purposes of this Section 2.11.

- (ii) To be timely under this Section 2.11, the Stockholder Notice must be delivered to, or mailed to and received by, the Secretary at the principal executive offices of the Company not later than the close of business on the one hundred twentieth (120th) day or earlier than the close of business on the one hundred fiftieth (150th) day prior to the anniversary date on which the Company first distributed its definitive proxy materials for the prior year's annual meeting of stockholders; provided, however, that in the event that the annual meeting of stockholders is called for a date that is not within thirty (30) days before or after the first anniversary of the prior year's annual meeting of stockholders, notice by the stockholder in order to be timely, must be so delivered, or so mailed and received, not earlier than the close of business on the one hundred fiftieth (150th) day prior to such annual meeting and not later than the close of business on the later of the one hundred twentieth (120th) day prior to such annual meeting or the tenth (10th) day following the date on which public disclosure (as defined in Section 2.10(c)(ii)) of the date of such annual meeting is first made by the Company. In no event shall the public disclosure of an adjournment or a postponement of an annual meeting of stockholders commence a new time period (or extend any time period) for the giving of the Stockholder Notice as described above.
- (iii) Within the time period for delivery of the Stockholder Notice, a written representation and agreement of each Stockholder Nominee shall be delivered to the Secretary of the Company at the principal executive offices of the Company, which shall be signed by each Stockholder Nominee and shall represent and agree (A) as to the matters set forth in Section 2.10(a)(ii)(A), and (B) that such Stockholder Nominee consents to being named as a nominee in any proxy statement and form of proxy relating to the annual meeting of stockholders and to serving as a Director if elected. At the request of the Company, the Stockholder Nominee must promptly, but in any event within five (5) business days after such request, submit all completed and signed questionnaires required of the Company's nominees and provide to the Company such other information as it may reasonably request. The Company may request such additional information as necessary to permit the Board of Directors to determine if each Stockholder Nominee satisfies the requirements of this Section 2.11.
- (iv) In the event that any information or communications provided by the Eligible Stockholder or any Stockholder Nominees to the Company or its stockholders is not, when provided, or thereafter ceases to be, true, correct and complete in all material respects (including omitting a material fact

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necessary to make the statements made, in light of the circumstances under which they were made, not misleading), such Eligible Stockholder or Stockholder Nominee, as the case may be, shall promptly notify the Secretary and provide the information that is required to make such information or communication true, correct, complete and not misleading; it being understood that providing any such notification shall not be deemed to cure any defect or limit the Company's right to omit a Stockholder Nominee from its proxy materials as provided in this Section 2.11.

(d) Proxy Access Procedures.

- (i) Notwithstanding anything to the contrary contained in this Section 2.11, the Company may omit from its proxy materials any Stockholder Nominee, and such nomination shall be disregarded and no vote on such Stockholder Nominee shall occur, notwithstanding that proxies in respect of such vote may have been received by the Company, if:
  - (A) the Eligible Stockholder or Stockholder Nominee breaches any of its agreements, representations or warranties set forth in the Stockholder Notice or otherwise submitted pursuant to this Section 2.11, any of the information in the Stockholder Notice or otherwise submitted pursuant to this Section 2.11 was not, when provided, true, correct and complete (or omitted a material fact necessary to make the statements made, in light of the circumstances under which they were made, not misleading), or the Eligible Stockholder or applicable Stockholder Nominee otherwise fails to comply with its obligations pursuant to these Bylaws, including, but not limited to, its obligations under this Section 2.11;
  - (B) the Stockholder Nominee (1) is not independent under any applicable listing standards, any applicable rules of the Commission or any publicly disclosed standards used by the Board of Directors in determining and disclosing the independence of the Company's Directors, (2) is or has been, within the past three (3) years, an officer or Director of a competitor, as defined in Section 8 of the Clayton Antitrust Act of 1914, as amended, (3) is a named subject of a pending criminal proceeding (excluding traffic violations and other minor offenses) or has been convicted in a criminal proceeding (excluding traffic violations and other minor offenses) within the past ten (10) years, (4) is subject to any order of the type specified in Rule 506(d) of Regulation D promulgated under the Securities Act of 1933, as amended (the "Securities Act") or (5) shall have provided any information to the Company or its stockholders that was untrue in any material respect or that omitted to state a material fact necessary to make the statements made, in light of the circumstances in which they were made, not misleading;

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- (C) the Company has received a notice (whether or not subsequently withdrawn) that a stockholder intends to nominate any candidate for election to the Board of Directors pursuant to the advance notice requirements for stockholder nominees for Director in Section 2.10(a); or
- (D) the election of the Stockholder Nominee to the Board of Directors would cause the Company to violate the Certificate of Incorporation, these Bylaws, or any applicable law, rule, regulation or listing standard.
- (ii) An Eligible Stockholder submitting more than one Stockholder Nominee for inclusion in the Company's proxy materials pursuant to this Section 2.11 shall rank such Stockholder Nominees based on the order that the Eligible Stockholder desires such Stockholder Nominees to be selected for inclusion in the Company's proxy materials and include such assigned rank in its Stockholder Notice submitted to the Company. In the event that the number of Stockholder Nominees submitted by Eligible Stockholders pursuant to this Section 2.11 exceeds the Authorized Number, the Stockholder Nominees to be included in the Company's proxy materials shall be determined in accordance with the following provisions: one Stockholder Nominee who satisfies the eligibility requirements in this Section 2.11 shall be selected from each Eligible Stockholder for inclusion in the Company's proxy materials until the Authorized Number is reached, going in order of the amount (largest to smallest) of shares of the Company each Eligible Stockholder disclosed as Owned in its Stockholder Notice submitted to the Company and going in the order of the rank (highest to lowest) assigned to each Stockholder Nominee by such Eligible Stockholder. If the Authorized Number is not reached after one Stockholder Nominee who satisfies the eligibility requirements in this Section 2.11 has been selected from each Eligible Stockholder, this selection process shall continue as many times as necessary, following the same order each time, until the Authorized Number is reached. Following such determination, if any Stockholder Nominee who satisfies the eligibility requirements in this Section 2.11 thereafter is nominated by the Board of Directors, thereafter is not included in the Company's proxy materials or thereafter is not submitted for Director election for any reason (including the Eligible Stockholder's or Stockholder Nominee's failure to comply with this Section 2.11), no other nominee or nominees shall be included in the Company's proxy materials or otherwise submitted for election as a Director at the applicable annual meeting of stockholders in substitution for such Stockholder Nominee.



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- (iii) Any Stockholder Nominee who is included in the Company's proxy materials for a particular annual meeting of stockholders but either (A) withdraws from or becomes ineligible or unavailable for election at such annual meeting for any reason, including for the failure to comply with any provision of these Bylaws (provided that in no event shall any such withdrawal, ineligibility or unavailability commence a new time period (or extend any time period) for the giving of a Stockholder Notice) or (B) does not receive in favor of such Stockholder Nominee's election at least twenty-five percent (25%) of the votes cast with respect to such Stockholder Nominee's election, shall be ineligible to be a Stockholder Nominee pursuant to this Section 2.11 for the next two (2) annual meetings of stockholders.
- (iv) Notwithstanding the foregoing provisions of this Section 2.11, unless otherwise required by law or otherwise determined by the chairperson of the meeting or the Board of Directors, if the stockholder delivering the Stockholder Notice (or a qualified representative of the stockholder, as defined in Section 2.10(c)(i)) does not appear at the annual meeting of stockholders of the Company to present its Stockholder Nominee or Stockholder Nominees, such nomination or nominations shall be disregarded, notwithstanding that proxies in respect of the election of the Stockholder Nominee or Stockholder Nominees may have been received by the Company.
- (v) The Board of Directors (and any other person or body authorized by the Board of Directors) shall have the power and authority to interpret this Section 2.11 and to make any and all determinations necessary or advisable to apply this Section 2.11 to any persons, facts or circumstances, including, without limitation, the power to determine (A) whether one or more stockholders or beneficial owners qualifies as an Eligible Stockholder, (B) whether a Stockholder Notice complies with this Section 2.11 and has otherwise met the requirements of this Section 2.11, (C) whether a Stockholder Nominee satisfies the qualifications and requirements in this Section 2.11, and (D) whether any and all requirements of this Section 2.11 (or any applicable requirements of Section 2.10) have been satisfied. Any such interpretation or determination adopted in good faith by the Board of Directors (or any other person or body authorized by the Board of Directors) shall be binding on all persons, including, without limitation, the Company and its stockholders (including, without limitation, any beneficial owners).
- (vi) For the avoidance of doubt, nothing in this Section 2.11 shall limit the Company's ability to solicit against any Stockholder Nominee or include in its proxy materials the Company's own statements or other information relating to any Eligible Stockholder or Stockholder Nominee, including any information provided to the Company pursuant to this Section 2.11.

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- (vii) Other than pursuant to Rule 14a-19 under the Exchange Act, this Section 2.11 shall be the exclusive method for stockholders to include Director nominees for election in the Company's proxy materials.

### ARTICLE III

#### BOARD OF DIRECTORS

- 3.1 Number and Qualifications.** The business and affairs of the Company shall be managed by or under the direction of the Board of Directors. The number of Directors constituting the entire Board of Directors shall be not less than six (6) nor more than sixteen (16), as fixed from time to time exclusively by resolution of a majority of the entire Board of Directors. As used in these Bylaws, the term "entire Board of Directors" means the total authorized number of Directors that the Company would have if there were no vacancies.
- 3.2 Term.** Subject to any rights of holders of preferred stock, if any, to elect directors, each director shall hold office for the applicable term set forth in the Certificate of Incorporation. Notwithstanding the expiration of the term of a director, the director shall continue to hold office until a successor shall be elected and qualified or until his or her earlier death, resignation, disqualification or removal.
- 3.3 Resignation.** A Director may resign at any time by giving written notice to the Chairperson of the Board, the Chief Executive Officer, the Lead Director (if any) or the Secretary. Unless otherwise stated in such notice of resignation, the acceptance thereof shall not be necessary to make it effective; and such resignation shall take effect at the time or upon the happening of an event specified therein or, in the absence of such specification, it shall take effect upon the receipt thereof.
- 3.4 Vacancies.** Subject to the provisions of the Certificate of Incorporation and the rights of the holders of any class or series of preferred stock to elect directors, any vacancies on the Board of Directors for any reason, including from the death, resignation, disqualification or removal of any director, and any newly created directorships resulting by reason of any increase in the number of directors shall be filled exclusively by the Board of Directors, acting by the affirmative vote of a majority of the remaining directors then in office, even if less than a quorum, or by a sole remaining director, and shall not be filled by stockholders. Subject to the provisions of the Certificate of Incorporation, any directors elected to fill a vacancy shall hold office until the next annual meeting of stockholders or until their successors are duly elected and qualified or until their death, resignation, disqualification or removal.
- 3.5 Regular Meetings.** Regular meetings of the Board of Directors may be held without further notice on such date and at such time and place as shall from time to time be determined by the Board of Directors. A meeting of the Board of Directors for the election of officers and the transaction of such other business as may come before it may be held without notice immediately following the annual meeting of stockholders.

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- 3.6 Special Meetings.** Special meetings of the Board of Directors may be called by the Chairperson of the Board, the Chief Executive Officer, the Lead Director, or at the request in writing or by the affirmative vote of a majority of the Directors then in office.
- 3.7 Notice of Special Meetings.** Notice of the time and place of each special meeting of the Board of Directors shall be mailed to each Director at least two (2) days before the meeting at his or her residence or usual place of business, or telegraphed, telecopied or electronically transmitted or delivered personally or by telephone to such Director at least one (1) day before the meeting but such notice may be waived by such Director. The notice need not state the purposes of the special meeting of the Board of Directors and, unless indicated in the notice thereof, any and all business may be transacted at a special meeting of the Board of Directors.
- 3.8 Place of Meetings.** The Directors may hold their meetings and have an office or offices within or outside of the State of Delaware as the Board of Directors may from time to time determine.
- 3.9 Participation in Meetings by Other Communications Equipment.** Members of the Board of Directors, or of any committee thereof, may participate in a meeting of the Board of Directors or committee by means of conference telephone or other communications equipment by means of which all persons participating in the meeting can hear each other, and such participation shall constitute presence in person at the meeting.
- 3.10 Quorum.** A majority of the total number of Directors then holding office shall constitute a quorum. If a quorum does not exist, a majority of the Directors present may adjourn the meeting of the Board of Directors from time to time without notice, other than announcement at the meeting, until a quorum shall be obtained.
- 3.11 Chairperson of the Board.** The Board of Directors, in its discretion, may choose a Chairperson of the Board (who shall be a Director but need not be elected as an officer). The Chairperson of the Board shall perform such duties and may exercise such powers as may from time to time be assigned by these Bylaws or by the Board of Directors.
- 3.12 Organization.** The Chairperson of the Board, or, in the absence of the Chairperson of the Board, the independent Lead Director (if any), or, in the absence of the Chairperson and independent Lead Director, a member of the Board of Directors selected by the majority of the entire Board of Directors, shall preside at meetings of the stockholders and meetings of the Board of Directors. The Secretary or an Assistant Secretary of the Company shall act as secretary, but in the absence of the Secretary or an Assistant Secretary, the presiding officer may appoint a secretary.
- 3.13 Compensation of Directors.** Directors shall receive such compensation for their services on the Board of Directors and any committee thereof and such reimbursement for their expenses of attending meetings of the Board of Directors and any committee thereof as the Board of Directors may determine from time to time.

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- 3.14 Action by Written Consent.** Any action required or permitted to be taken at any meeting of the Board of Directors or of any committee thereof may be taken without a meeting, if all members of the Board of Directors or committee, as the case may be, consent to the action in writing or by electronic transmission, and the writing or writings or electronic transmission or transmissions are filed with the minutes of proceedings of the Board of Directors or committee thereof. Such filing shall be in paper form if the minutes are maintained in paper form and shall be in electronic form if the minutes are maintained in electronic form.
- 3.15 Interested Transactions.** No contract or transaction between the Company and one or more of its Directors or officers, or between the Company and any other corporation, partnership, association or other organization in which one or more of the Company's Directors or officers are Directors or officers or have a financial interest, shall be void or voidable solely for this reason, or solely because the Director or officer is present at or participates in the meeting of the Board of Directors or committee thereof that authorizes the contract or transaction, or solely because any such Director's or officer's vote is counted for such purpose if: (a) the material facts as to the Director's or officer's relationship or interest and as to the contract or transaction are disclosed or are known to the Board of Directors or the committee and the Board of Directors or committee in good faith authorizes the contract or transaction by the affirmative vote of a majority of the disinterested Directors, even though the disinterested Directors be less than a quorum; (b) the material facts as to the Director's or officer's relationship or interest and as to the contract or transaction are disclosed or are known to the stockholders entitled to vote thereon and the contract or transaction is specifically approved in good faith by vote of the stockholders; or (c) the contract or transaction is fair as to the Company as of the time it is authorized, approved or ratified by the Board of Directors, a committee thereof or the stockholders. Common or interested Directors may be counted in determining the presence of a quorum at a meeting of the Board of Directors or of a committee that authorizes the contract or transaction.
- 3.16 Committees of the Board of Directors.** The Board of Directors may designate one or more committees, each committee to consist of one or more of the Directors. The Board of Directors may designate one or more Directors as alternate members of any committee, who may replace any absent or disqualified member at any meeting of the committee. Subject to the rules and regulations of any securities exchange or quotation system on which the securities of the Company are listed for trading, if a member of a committee shall be absent from any meeting, or disqualified from voting thereat, the remaining member or members present at the meeting and not disqualified from voting, whether or not such member or members constitute a quorum, may unanimously appoint another member of the Board of Directors to act at the meeting in the place of any such absent or disqualified member. Any such committee, to the extent permitted by applicable law and provided in the resolution establishing such committee, shall have and may exercise all the powers and authority of the Board of Directors in the management of the business and affairs of the Company and may authorize the seal of the Company to be affixed to all papers that may require it to the extent so authorized by the Board of Directors. Unless the Board of Directors provides otherwise, at all meetings of such committee, a majority of the then authorized members of the committee shall constitute a

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quorum for the transaction of business, and the vote of a majority of the members of the committee present at any meeting at which there is a quorum shall be the act of the committee. Each committee shall keep regular minutes of its meetings. Unless the Board of Directors provides otherwise, each committee designated by the Board of Directors may make, alter and repeal rules and procedures for the conduct of its business. In the absence of such rules and procedures each committee shall conduct its business in the same manner as the Board of Directors conducts its business pursuant to this Article III. Notwithstanding anything to the contrary contained in this Article III, any resolution of the Board of Directors establishing or directing any committee of the Board of Directors or establishing or amending the charter of any such committee may establish requirements or procedures relating to the governance and/or operation of such committee that are different from, or in addition to, those set forth in these Bylaws and, to the extent that there is any inconsistency between these Bylaws and any such resolution or charter, the terms of such resolution or charter shall be controlling. No committee of the Board of Directors shall have the power or authority to (a) approve or adopt, or recommend to stockholders, any action or matter expressly required by the DGCL to be submitted to stockholders for approval; or (b) adopt, amend, or repeal these Bylaws. No committee of the Board of Directors shall take any action that is required by these Bylaws, the Certificate of Incorporation or the DGCL to be taken by a vote of a specified proportion of the entire Board of Directors.

## ARTICLE IV

### OFFICERS

- 4.1 Positions and Election.** The officers of the Company shall consist of a Chief Executive Officer, a Secretary, a Treasurer and such other officers with such other titles as the Board of Directors shall determine, including one or more Business Presidents, Vice Presidents, Assistant Treasurers and Assistant Secretaries. The Board of Directors may appoint such other officers as it may deem appropriate. Officers at the level below Senior Vice President may be appointed by the Chief Executive Officer. Any two or more offices may be held by the same person. Officers may, but need not, be Directors or stockholders of the Company.
- 4.2 Term.** Each officer of the Company shall hold office until such officer's successor is duly elected and qualified or until such officer's earlier death, resignation or removal. The Board of Directors may remove any officer at any time with or without cause by the majority vote of the members of the Board of Directors.
- 4.3 Resignation.** Any officer of the Company may resign at any time by giving written notice of his or her resignation to the Chief Executive Officer or the Secretary. Such resignation shall be effective upon receipt unless such notice provides that the resignation is effective at some later time or upon the occurrence of some later event.
- 4.4 Vacancies.** A vacancy occurring in any office shall be filled in the same manner as provide for the election or appointment to such office.

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- 4.5 Chief Executive Officer.** The Chief Executive Officer shall have general charge and supervision of the business of the Company subject to the direction of the Board of Directors, and shall perform all duties and have all powers that are commonly incident to the office of chief executive or that are delegated to such officer by the Board of Directors.
- 4.6 Business Presidents; Vice Presidents.** Each Business President and Vice President shall have such powers and perform such duties as may be assigned to him or her from time to time by the Board of Directors or the Chief Executive Officer. The Board of Directors may assign to any Vice President the title of Executive Vice President, Senior Vice President or any other title selected by the Board of Directors.
- 4.7 Secretary; Assistant Secretary.** The Secretary, or an Assistant Secretary, shall attend all sessions of the Board of Directors and all meetings of the stockholders and record all votes and the minutes of all proceedings in a book to be kept for that purpose, and shall perform like duties for committees when required. He or she shall give, or cause to be given, notice of all meetings of the stockholders and meetings of the Board of Directors, and shall perform such other duties as may be assigned by the Board of Directors. The Secretary, or an Assistant Secretary, shall keep in safe custody the seal of the Company and have authority to affix the seal to all documents requiring it and attest to the same.
- 4.8 Treasurer; Assistant Treasurer.** The Treasurer, or an Assistant Treasurer, shall have the custody of the corporate funds and other property of the Company, except as otherwise provided by the Board of Directors, and shall keep full and accurate accounts of receipts and disbursements in books belonging to the Company and shall deposit all moneys and other valuable effects in the name and to the credit of the Company in such depositories as may be designated by the Board of Directors. The Treasurer, or an Assistant Treasurer, shall disburse the funds of the Company as may be ordered by the Board of Directors, taking proper vouchers for such disbursements, and whenever requested by the Board of Directors, shall render an account of all his or her transactions as treasurer and of the financial condition of the Company, and shall perform such other duties as may be assigned by the Board of Directors.
- 4.9 Delegation of Authority.** The Board of Directors may from time to time delegate the powers or duties of any officer to any other officer or agent, notwithstanding the provisions herein.
- 4.10 Voting Securities Owned by the Company.** Powers of attorney, proxies, waivers of notice of meeting, consents and other instruments relating to securities owned by the Company may be executed in the name of and on behalf of the Company by the Chief Executive Officer or any other officer authorized to do so by the Board of Directors and any such officer may, in the name of and on behalf of the Company, take all such action as any such officer may deem advisable to vote in person or by proxy at any meeting of security holders of any corporation in which the Company may own securities and at any such meeting shall possess and may exercise any and all rights and power incident to the ownership of such securities and which, as the owner thereof, the Company might have exercised and possessed if present. The Board of Directors may, by resolution, from time to time confer like powers upon any other person or persons.

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## ARTICLE V

### INDEMNIFICATION

**5.1 Mandatory Indemnification.** The Company shall indemnify, to the fullest extent permitted by Delaware law, any person who was or is a defendant or is threatened to be made a defendant to any threatened, pending or completed action, suit or proceeding, whether civil, criminal, administrative or investigative, by reason of the fact that such person:

- (a) is or was a Director, officer or employee of the Company;
- (b) is or was a Director, officer or employee of the Company and is or was serving at the request of the Company as a Director, trustee, member, member representative, officer, employee or agent of another corporation, partnership, limited liability company, joint venture, trust or other enterprise; or
- (c) is or was serving at the request of the Company as a Director, trustee, member, member representative or officer of another corporation, partnership, limited liability company, joint venture, trust or other enterprise

against expenses (including attorneys' fees), judgments, fines and amounts paid in settlement actually and reasonably incurred by such person in connection with such action, suit or proceeding if such person acted in good faith and in a manner such person reasonably believed to be in or not opposed to the best interests of the Company, and, with respect to any criminal action or proceeding, had no reasonable cause to believe such person's conduct was unlawful. The termination of any action, suit or proceeding by judgment, order, settlement, conviction, or upon a plea of nolo contendere or its equivalent, shall not, of itself, create a presumption that the person did not act in good faith and in a manner which such person reasonably believed to be in or not opposed to the best interests of the Company, and, with respect to any criminal action or proceeding, had reasonable cause to believe that such person's conduct was unlawful.

**5.2 Permitted Indemnification.** The Company may indemnify, to the fullest extent permitted by Delaware law, any person who was or is a party or is threatened to be made a party to any threatened, pending or completed action, suit or proceeding, whether civil, criminal, administrative or investigative, by reason of the fact that such person:

- (a) is or was a Director, officer, employee or agent of the Company; or

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- (b) is or was serving at the request of the Company as a Director, trustee, member, member representative, officer, employee or agent of another corporation, partnership, limited liability company, joint venture, trust or other enterprise against expenses (including attorneys' fees), judgments, fines and amounts paid in settlement actually and reasonably incurred by such person in connection with such action, suit or proceeding if such person acted in good faith and in a manner such person reasonably believed to be in or not opposed to the best interests of the Company, and, with respect to any criminal action or proceeding, had no reasonable cause to believe such person's conduct was unlawful. The termination of any action, suit or proceeding by judgment, order, settlement, conviction, or upon a plea of nolo contendere or its equivalent, shall not, of itself, create a presumption that the person did not act in good faith and in a manner which such person reasonably believed to be in or not opposed to the best interests of the Company, and, with respect to any criminal action or proceeding, had reasonable cause to believe that such person's conduct was unlawful.

**5.3 Expenses Payable in Advance.** Expenses (including attorneys' fees) incurred by any person who is or was a Director or officer of the Company, or any person who is or was serving at the request of the Company as a Director, trustee, member, member representative or officer of another corporation, partnership, limited liability company, joint venture, trust or other enterprise, in defending or investigating a threatened or pending action, suit or proceeding, whether civil, criminal, administrative or investigative, shall be paid by the Company to the fullest extent permitted by Delaware law in advance of the final disposition of such action, suit or proceeding, upon receipt of an undertaking by or on behalf of such person to repay such amount if it ultimately shall be determined that such person is not entitled to be indemnified by the Company as authorized in this Article V. Such expenses (including attorneys' fees) incurred by any person who is or was an employee or agent of the Company, or any person who is or was serving at the request of the Company as an employee or agent of another corporation, partnership, limited liability company, joint venture, trust or other enterprise may be so paid upon such terms and conditions, if any, as the Board of Directors deems appropriate.

**5.4 Judicial Determination of Mandatory Indemnification or Mandatory Advancement of Expenses.** Any person may apply to any court of competent jurisdiction in the State of Delaware to order indemnification or advancement of expenses to the extent mandated under Sections 5.1 or 5.3 above. The basis of such order of indemnification or advancement of expenses by a court shall be a determination by such court that indemnification of, or advancement of expenses to, such person is proper in the circumstances. Notice of any application for indemnification or advancement of expenses pursuant to this Section 5.4 shall be given to the Company promptly upon the filing of such application. The burden of proving that such person is not entitled to such mandatory indemnification or mandatory advancement of expenses, or that the Company is entitled to recover the mandatory advancement of expenses pursuant to the terms of an undertaking, shall be on the Company. If successful in whole or in part in obtaining an order for mandatory indemnification or mandatory advancement of expenses, or in a suit brought by the Company to recover an advancement of expenses pursuant to the terms of an undertaking, such person shall also be entitled to be paid all costs (including attorneys' fees and expenses) in connection therewith.



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- 5.5 Nonexclusivity.** The indemnification and advancement of expenses mandated or permitted by, or granted pursuant to, this Article V shall not be deemed exclusive of any other rights to which those seeking indemnification or advancement of expenses may be entitled under the Certificate of Incorporation, any Bylaw, agreement, contract, vote of stockholders or disinterested Directors, or pursuant to the direction (howsoever embodied) of any court of competent jurisdiction or otherwise both as to action by the person in an official capacity and as to action in another capacity while holding such office it being the policy of the Company that indemnification of the persons specified in Section 5.1 and Section 5.3 shall be made to the fullest extent permitted by law. The provisions of this Article V shall not be deemed to preclude the indemnification of any person who is not specified in Section 5.1 or 5.3, but whom the Company has the power or obligation to indemnify under Delaware law or otherwise.
- 5.6 Insurance.** The Company may, but shall not be obligated to, purchase and maintain insurance at its expense on behalf of any person who is or was a Director, officer, employee or agent of the Company, or is or was a Director or officer of the Company serving at the request of the Company as a Director, officer, trustee, member, member representative, employee or agent of another corporation, partnership, limited liability company, joint venture, trust or other enterprise against any liability asserted against and incurred by such person in any such capacity, or arising out of the person's status as such, whether or not the Company would have the power or the obligation to indemnify such person against such liability under the provisions of this Article V.
- 5.7 Definitions.** For the purposes of this Article V references to "the Company" shall include, in addition to the resulting company, any constituent company (including any constituent of a constituent) absorbed in a consolidation or merger which, if its separate existence had continued, would have had power and authority to indemnify its Directors, trustees, members, member representatives, officers, employees or agents, so that any person who is or was a Director, trustee, member, member representative, officer, employee or agent of such constituent company, or is or was serving at the request of such constituent company as a Director, trustee, member, member representative, officer, employee or agent of another corporation, partnership, limited liability company, joint venture, trust or other enterprise, shall stand in the same position under the provisions of this Article V with respect to the resulting or surviving company as such person would have with respect to such constituent company if its separate existence had continued. The term "other enterprise" as used in this Article V shall include employee benefit plans. References to "fines" in this Article V shall include excise taxes assessed on a person with respect to an employee benefit plan. The phrase "serving at the request of the Company" shall include any service as a Director, trustee, member, member representative, officer, employee or agent that imposes duties on, or involves services by, such Director, trustee, member, member representative, officer, employee or agent with respect to any employee benefit plan, its participants or beneficiaries.
- 5.8 Survival.** The indemnification and advancement of expenses provided by, or granted pursuant to, this Article V shall continue as to a person who has ceased to be a Director, officer, employee or agent of the Company, and to a person who has ceased to serve at the request of the Company as a Director, trustee, member, member representative, officer, employee or agent of another corporation, partnership, limited liability company, joint venture, trust or other enterprise, and, in each case, shall inure to the benefit of the heirs, executors and administrators of such person.

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- 5.9 Repeal, Amendment or Modification.** Any repeal, amendment or modification of this Article V shall not affect any rights or obligations then existing between the Company and any person referred to in this Article V with respect to any state of facts then or theretofore existing or any action, suit or proceeding theretofore or thereafter brought based in whole or in part upon such state of facts.

## ARTICLE VI

### MISCELLANEOUS

- 6.1 Seal.** The corporate seal shall have inscribed upon it the name of the Company, the year “2024” and the words “Seal” and “Delaware.” The Secretary shall be in charge of the seal and may authorize a duplicate seal to be kept and used by any other officer or person.
- 6.2 Waiver of Notice.** Whenever any notice is required to be given to any stockholder or Director, a waiver thereof in writing, signed by the person or persons entitled to the notice, whether before or after the time stated therein, shall be deemed equivalent thereto.
- 6.3 Forum for Adjudication of Certain Disputes.** Unless the Company consents in writing to the selection of an alternative forum (an “Alternative Forum Consent”), the Court of Chancery of the State of Delaware shall be the sole and exclusive forum for (a) any derivative action or proceeding brought on behalf of the Company, (b) any action asserting a claim of breach of a duty (including any fiduciary duty) owed by any current or former Director, officer, other employee, stockholder, or agent of the Company to the Company or the Company’s stockholders, (c) any action asserting a claim against the Company or any current or former Director, officer, stockholder, employee or agent of the Company arising out of or relating to any provision of the DGCL or the Company’s Certificate of Incorporation or Bylaws (each, as in effect from time to time), or (d) any action asserting a claim against the Company or any current or former Director, officer, stockholder, employee or agent of the Company governed by the internal affairs doctrine of the State of Delaware; provided, however, that, in the event that the Court of Chancery of the State of Delaware lacks subject matter jurisdiction over any such action or proceeding, then the sole and exclusive forum for such action or proceeding shall be another state or federal court located within the State of Delaware, except that, in each such case, if the Court of Chancery (or such other state or federal court located within the State of Delaware, as applicable) has dismissed a prior action by the same plaintiff asserting the same claims because such court lacked personal jurisdiction over an indispensable party named as a defendant therein, then such action or proceeding shall not be required to be brought in another state or federal court located within the State of Delaware. Notwithstanding the foregoing, unless the Company gives an Alternative Forum Consent, the federal district courts of the United States of America shall, to the fullest extent permitted by law, be the sole and exclusive forum for the resolution of any complaint asserting a cause of action arising under the Securities Act or any rules or regulations promulgated thereunder. Any person or entity purchasing or otherwise

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acquiring any interest in shares of capital stock of the Company shall be deemed to have notice of and consented to the provisions of this Section 6.3. Failure to enforce the foregoing provisions would cause the Company irreparable harm and the Company shall be entitled to equitable relief, including injunctive relief and specific performance, to enforce the foregoing provisions. The existence of any prior Alternative Forum Consent shall not act as a waiver of the Company's ongoing consent right as set forth above in this Section 6.3 with respect to any current or future actions or claims. Notwithstanding anything to the contrary in this Section 6.3, nothing contained in this Section 6.3 shall apply to any action brought to enforce any duty or liability created by the Exchange Act or any rules or regulations promulgated thereunder, to the extent such application would be contrary to law.

- 6.4 Offices.** The address of the registered office of the Company in the State of Delaware is Corporation Trust Center, 1209 Orange Street, in the City of Wilmington, County of New Castle 19801. The name of its registered agent at that address is The Corporation Trust Company. The Company may also have offices at such other places within or outside of the State of Delaware as the Board of Directors may from time to time determine or the business of the Company may from time to time require.
- 6.5 Fiscal Year.** Except as from time to time otherwise designated by the Board of Directors, the fiscal year of the Corporation shall end on December 31.
- 6.6 Contracts.** Except as otherwise provide in these Bylaws, the Board of Directors may authorize any officer or officers to enter into any contract or to execute or deliver any instrument on behalf of the Company and such authority may be general or limited to specific instances. Any officer so authorized may, unless the authorizing resolution otherwise provides, delegate such authority to one or more subordinate officers, employees or agents, and such delegation may provide for further delegation.
- 6.7 Checks, Notes, Drafts, Etc.** All checks, notes, drafts or other orders for the payment of money of the Company shall be signed, endorsed or accepted in the name of the Company by such officer, officers, person or persons as from time to time may be designated by the Board of Directors or by an officer or officers authorized by the Board of Directors to make such designation.
- 6.8 Dividends.** Dividends upon the capital stock of the Corporation, subject to the requirements of the DGCL and the provisions of the Certificate of Incorporation, if any, may be declared by the Board of Directors at any regular or special meeting of the Board of Directors (or any action by written consent in lieu thereof in accordance with Section 3.14), and may be paid in cash, in property, or in shares of the Company's capital stock. Before payment of any dividend, there may be set aside out of any funds of the Company available for dividends such sum or sums as the Board of Directors from time to time, in its absolute discretion, deems proper as a reserve or reserves to meet contingencies, or for purchasing any of the shares of capital stock, warrants, rights, options, bonds, debentures, notes, scrip or other securities or evidences of indebtedness of the Company, or for equalizing dividends, or for repairing or maintaining any property of the Company, or for any proper purpose, and the Board of Directors may modify or abolish any such reserve.

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- 6.9 Conflict with Applicable Law or Certificate of Incorporation.** These Bylaws are adopted subject to any applicable law and the Certificate of Incorporation. Whenever these Bylaws may conflict with any applicable law or the Certificate of Incorporation, such conflict shall be resolved in favor of such law or the Certificate of Incorporation.

## ARTICLE VII

### AMENDMENT OF BYLAWS

- 7.1 Amendment of Bylaws.** Subject to Section 7.2, the Board of Directors is expressly authorized and shall have the power to amend, alter, change, modify, supplement, repeal or adopt any provision of these Bylaws at any regular or special meeting of the Board of Directors at which there is a quorum by the affirmative vote of a majority of the total number of Directors present at such meeting, or by unanimous written consent in accordance with Section 3.14. Subject to Section 7.2, the stockholders also shall have power to amend, alter, change, modify, supplement, repeal or adopt any provision of these Bylaws at any annual or special meeting of stockholders subject to the requirements of these Bylaws and the Certificate of Incorporation by the affirmative vote of the holders of a majority of the voting power of all the shares of capital stock of the Company then entitled to vote generally in the election of Directors, voting together as a single class.
- 7.2 Amendment Requiring Series A Preferred Stockholders Vote.** Notwithstanding anything in the Certificate of Incorporation or these Bylaws to the contrary, the unanimous affirmative vote of the holders of all of the outstanding shares of Series A Preferred Stock of the Company, voting separately as a single class, shall be required for the matters set forth in the Series A Preferred Stock Certificate of Designation (as defined in the Certificate of Incorporation), including Section 5 thereof. Any amendment, alteration, change, modification, supplement, repeal or adoption of any provision of these Bylaws or attempt thereof, directly or indirectly (including, without limitation, through any supplement, merger, combination, consolidation, tender offer, scheme of arrangement, sale, disposition, divestiture, acquisition, settlement, exchange (including, without limitation, any exchange for securities or other obligations or instruments (including, without limitation, equity-linked, derivative, synthetic or otherwise)), conversion (statutory or otherwise), swap, transfer, assignment, delegation, issuance, dividend, continuance, reclassification, stock split, recapitalization, reorganization, dissolution, termination, restructuring, joint venture, strategic partnership, migration, change in jurisdiction, division (statutory or otherwise), demerger, spin-off, split-off, separation, dividend, distribution, rights offering, or other corporate action or event, including in a single transaction or a series of related transactions), without the vote required under the Series A Preferred Stock Certificate of Designation, and any such amendment, alteration, change, modification, supplement, repeal or adoption, or attempt thereof, and any documentation thereof or related thereto, shall be expressly *ultra vires*, null and void *ab initio* and of no force or effect.

## FIRST SUPPLEMENTAL INDENTURE

FIRST SUPPLEMENTAL INDENTURE (this “First Supplemental Indenture”) dated as of November 1, 2025, among Qnity Electronics, Inc., a Delaware corporation (the “Company”), each Subsidiary of the Company listed on the signature pages hereto (collectively, the “U.S. Subsidiary Guarantors”) and U.S. BANK TRUST COMPANY, NATIONAL ASSOCIATION, a national banking association, as trustee (in such capacity, the “Trustee”) and as collateral agent (in such capacity, the “Notes Collateral Agent”) under this Indenture referred to below. Capitalized but undefined terms used herein shall have the meanings ascribed to them under the Indenture.

## WITNESSETH:

WHEREAS the Company, the Trustee and the Notes Collateral Agent entered into an Indenture (the “Indenture”) dated as of August 15, 2025, providing for the issuance of the Company’s 5.750% Senior Secured Notes due 2032 (the “Notes”);

WHEREAS Section 4.11 of this Indenture provides that under certain circumstances the Company is required to cause each U.S. Subsidiary Guarantor to execute and deliver to the Trustee a supplemental indenture pursuant to which such U.S. Subsidiary Guarantor shall unconditionally guarantee all the Company’s obligations under the Notes pursuant to a supplemental indenture on the terms and conditions set forth herein and in this Indenture;

WHEREAS pursuant to Section 9.01(a)(iv) of this Indenture, the Trustee, the Notes Collateral Agent and the Company are authorized to execute and deliver this First Supplemental Indenture; and

WHEREAS part of the Collateral securing the Notes consist of pledges over 100% of the Equity Interests issued by the Korean Pledgees by the Grantors;

NOW THEREFORE, in consideration of the foregoing and for other good and valuable consideration, the receipt of which is hereby acknowledged, each U.S. Subsidiary Guarantor, the Company, the Trustee and the Notes Collateral Agent mutually covenant and agree for the equal and ratable benefit of the Holders as follows:

1. Agreement to Guarantee. Each U.S. Subsidiary Guarantor hereby agrees, jointly and severally with all the existing Subsidiary Guarantors, to unconditionally guarantee the Company’s obligations under the Notes on the terms and subject to the conditions set forth in Article 10 of this Indenture and to be bound by all other applicable provisions of this Indenture and the Notes.

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2. Parallel Liabilities.

(i) The Company, each Subsidiary Guarantor and each Grantor (each a “Notes Party” and together the “Notes Parties”) irrevocably and unconditionally undertakes to pay to the Notes Collateral Agent an amount equal to the aggregate amount of its Corresponding Liabilities (as these may exist from time to time).

(ii) The Notes Secured Parties and each Notes Party agree that: (i) each Notes Party’s Parallel Liability is due and payable at the same time, in the same amount and in the same currency as its Corresponding Liabilities; (ii) each Notes Party’s Parallel Liability is decreased to the extent that its Corresponding Liabilities have been irrevocably paid or discharged and its Corresponding Liabilities are decreased to the extent that its Parallel Liability has been irrevocably paid or discharged; (iii) each Notes Party’s Parallel Liability is independent and separate from, and without prejudice to, its Corresponding Liabilities, and constitutes a single obligation of a Notes Party to the Notes Collateral Agent (even though such Notes Party may owe more than one Corresponding Liability to the Notes Secured Parties under this Indenture, the Security Documents, and the Intercreditor Agreements) and an independent and separate claim of the Notes Collateral Agent, to receive payment of that Parallel Liability (in its capacity as the independent and separate creditor of that Parallel Liability and not as a co-creditor in respect of the Corresponding Liabilities); and (iv) for purposes under this Section 2, U.S. BANK TRUST COMPANY, NATIONAL ASSOCIATION, in its capacity as Notes Collateral Agent, acts in its own name and not as agent, representative or trustee of the Notes Secured Parties and accordingly holds neither its claim resulting from a Parallel Liability nor any securing a Parallel Liability on trust.

As used herein,

“Parallel Liability” means a Notes Party’s undertaking pursuant to this Section 2, which shall in no event exceed such Notes Party’s Corresponding Liability.

“Corresponding Liability” means the Notes Obligations of a Notes Party, excluding its Parallel Liability.

3. Ratification of Indenture; Supplemental Indentures Part of Indenture. Except as expressly amended hereby, this Indenture is in all respects ratified and confirmed and all the terms, conditions and provisions thereof shall remain in full force and effect. This First Supplemental Indenture shall form a part of this Indenture for all purposes, and every Holder heretofore or hereafter authenticated and delivered shall be bound hereby.

4. Governing Law. **THIS FIRST SUPPLEMENTAL INDENTURE SHALL BE GOVERNED BY, AND CONSTRUED IN ACCORDANCE WITH, THE LAWS OF THE STATE OF NEW YORK.**

5. Trustee and Notes Collateral Agent. Each of the Trustee and the Notes Collateral Agent make no representation as to the validity or sufficiency of this First Supplemental Indenture. In acting hereunder, each of the Trustee and the Notes Collateral Agent shall be entitled to all of the rights, privileges, protections, benefits, indemnities and immunities of the Trustee and the Notes Collateral Agent under this Indenture (as applicable).

---

6. Counterparts. The parties may sign any number of copies of this First Supplemental Indenture. Each signed copy shall be an original, but all of them together represent the same agreement. Delivery of an executed counterpart of a signature page of this First Supplemental Indenture by email or other electronic means (including a “.pdf” or “.tif” file) shall be effective as delivery of a manually executed counterpart of this First Supplemental Indenture. The words “execution”, “signed”, “signature”, and words of like import in this First Supplemental Indenture or any agreement entered into in connection therewith shall be deemed to include electronic signatures or the keeping of records in electronic form, each of which shall be of the same legal effect, validity or enforceability as a manually executed signature or the use of a paper-based recordkeeping system, as the case may be, to the extent and as provided for in any applicable law, including the Federal Electronic Signatures in Global and National Commerce Act, the New York State Electronic Signatures and Records Act, or any other similar state laws based on the Uniform Electronic Transactions Act.

7. Effect of Headings. The Section headings herein are for convenience only and shall not affect the construction thereof.

---

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

QNITY ELECTRONICS, INC.

by /s/ Sharon Dobson  
Name: Sharon Dobson  
Title: Treasurer

*[Signature Page to Secured Notes Supplemental Indenture]*



---

DUPONT E&I HOLDING, INC.

by /s/ Lauren Luptak  
Name: Lauren Luptak  
Title: Vice President and Assistant Secretary

DUPONT ELECTRONIC MATERIALS CMP, LLC

by /s/ Lauren Luptak  
Name: Lauren Luptak  
Title: Vice President and Assistant Secretary

DUPONT ELECTRONIC MATERIALS HOLDING, INC.

by /s/ Lauren Luptak  
Name: Lauren Luptak  
Title: Vice President and Assistant Secretary

DUPONT ELECTRONIC MATERIALS  
INTERNATIONAL, LLC

by /s/ Lauren Luptak  
Name: Lauren Luptak  
Title: Vice President and Assistant Secretary

DUPONT ELECTRONICS, INC.

by /s/ Lauren Luptak  
Name: Lauren Luptak  
Title: Vice President and Assistant Secretary

*[Signature Page to Secured Notes Supplemental Indenture]*

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EKC ADVANCED ELECTRONICS IP, LLC

by /s/ Lauren Luptak

Name: Lauren Luptak

Title: Vice President and Assistant Secretary

EKC ADVANCED ELECTRONICS USA 2, LLC

by /s/ Lauren Luptak

Name: Lauren Luptak

Title: Vice President and Assistant Secretary

EKC ADVANCED ELECTRONICS USA 3, LLC

by /s/ Lauren Luptak

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Title: Vice President and Assistant Secretary

EKC ADVANCED ELECTRONICS USA 4, LLC

by /s/ Lauren Luptak

Name: Lauren Luptak

Title: Vice President and Assistant Secretary

INNOVALIGHT, INC.

by /s/ Lauren Luptak

Name: Lauren Luptak

Title: Vice President and Assistant Secretary

*[Signature Page to Secured Notes Supplemental Indenture]*

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KALREZ USA, LLC

by /s/ Lauren Luptak  
Name: Lauren Luptak  
Title: Vice President and Assistant Secretary

LAIRD TECHNOLOGIES, INC.

by /s/ Lauren Luptak  
Name: Lauren Luptak  
Title: Vice President and Assistant Secretary

PERFORMANCE SPECIALTY PRODUCTS NA, LLC

by /s/ Lauren Luptak  
Name: Lauren Luptak  
Title: Vice President and Assistant Secretary

EKC TECHNOLOGY, INC.

by /s/ Lauren Luptak  
Name: Lauren Luptak  
Title: Vice President and Assistant Secretary

PERFORMANCE SPECIALTY PRODUCTS  
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ELECTRONICS JP HOLDING 2, INC.

by /s/ Lauren Luptak  
Name: Lauren Luptak  
Title: Vice President and Assistant Secretary

*[Signature Page to Secured Notes Supplemental Indenture]*

---

ELECTRONICS JP HOLDING 3, INC.

by /s/ Lauren Luptak

Name: Lauren Luptak

Title: Vice President and Assistant Secretary

*[Signature Page to Secured Notes Supplemental Indenture]*

---

U.S. BANK TRUST COMPANY, NATIONAL  
ASSOCIATION, as Trustee and Notes Collateral Agent

by /s/ Mark DiGiacomo  
Name: Mark DiGiacomo  
Title: Vice President

*[Signature Page to Secured Notes Supplemental Indenture]*

## SECOND SUPPLEMENTAL INDENTURE

SECOND SUPPLEMENTAL INDENTURE (this “Second Supplemental Indenture”) dated as of November 2, 2025, among Qnity Electronics, Inc., a Delaware corporation (the “Company”), each Subsidiary of the Company listed on the signature pages hereto (collectively, the “Foreign Subsidiary Guarantors”) and U.S. BANK TRUST COMPANY, NATIONAL ASSOCIATION, a national banking association, as trustee (in such capacity, the “Trustee”) and as collateral agent (in such capacity, the “Notes Collateral Agent”) under this Indenture referred to below. Capitalized but undefined terms used herein shall have the meanings ascribed to them under the Indenture.

## WITNESSETH:

WHEREAS the Company, the Trustee and the Notes Collateral Agent entered into an Indenture (the “Base Indenture”) dated as of August 15, 2025, providing for the issuance of the Company’s 5.750% Senior Secured Notes due 2032 (the “Notes”), as amended by the First Supplemental Indenture (the “First Supplemental Indenture”) and, together with the Base Indenture, the “Indenture”) dated as of November 1, 2025, by and among the Company, the U.S. Subsidiary Guarantors (as defined in the First Supplemental Indenture) and the Trustee and the Notes Collateral Agent;

WHEREAS Section 4.11 of this Indenture provides that under certain circumstances the Company is required to cause each Foreign Subsidiary Guarantor to execute and deliver to the Trustee a supplemental indenture pursuant to which such Foreign Subsidiary Guarantor shall unconditionally guarantee all the Company’s obligations under the Notes pursuant to a supplemental indenture on the terms and conditions set forth herein and in this Indenture; and

WHEREAS pursuant to Section 9.01(a)(iv) of this Indenture, the Trustee, the Notes Collateral Agent and the Company are authorized to execute and deliver this Second Supplemental Indenture;

NOW THEREFORE, in consideration of the foregoing and for other good and valuable consideration, the receipt of which is hereby acknowledged, each Foreign Subsidiary Guarantor, the Company, the Trustee and the Notes Collateral Agent mutually covenant and agree for the equal and ratable benefit of the Holders as follows:

1. Agreement to Guarantee. Each Foreign Subsidiary Guarantor hereby agrees, jointly and severally with all the existing Subsidiary Guarantors, to unconditionally guarantee the Company’s obligations under the Notes on the terms and subject to the conditions set forth in Article 10 of this Indenture and to be bound by all other applicable provisions of this Indenture and the Notes.

---

2. Ratification of Indenture; Supplemental Indentures Part of Indenture. Except as expressly amended hereby, this Indenture is in all respects ratified and confirmed and all the terms, conditions and provisions thereof shall remain in full force and effect. This Second Supplemental Indenture shall form a part of this Indenture for all purposes, and every Holder heretofore or hereafter authenticated and delivered shall be bound hereby.

3. Governing Law. **THIS SECOND SUPPLEMENTAL INDENTURE SHALL BE GOVERNED BY, AND CONSTRUED IN ACCORDANCE WITH, THE LAWS OF THE STATE OF NEW YORK.**

4. Trustee and Notes Collateral Agent. Each of the Trustee and the Notes Collateral Agent make no representation as to the validity or sufficiency of this Second Supplemental Indenture. In acting hereunder, each of the Trustee and the Notes Collateral Agent shall be entitled to all of the rights, privileges, protections, benefits, indemnities and immunities of the Trustee and the Notes Collateral Agent under this Indenture (as applicable).

5. Counterparts. The parties may sign any number of copies of this Second Supplemental Indenture. Each signed copy shall be an original, but all of them together represent the same agreement. Delivery of an executed counterpart of a signature page of this Second Supplemental Indenture by email or other electronic means (including a “.pdf” or “.tif” file) shall be effective as delivery of a manually executed counterpart of this Second Supplemental Indenture. The words “execution”, “signed”, “signature”, and words of like import in this Second Supplemental Indenture or any agreement entered into in connection therewith shall be deemed to include electronic signatures or the keeping of records in electronic form, each of which shall be of the same legal effect, validity or enforceability as a manually executed signature or the use of a paper-based recordkeeping system, as the case may be, to the extent and as provided for in any applicable law, including the Federal Electronic Signatures in Global and National Commerce Act, the New York State Electronic Signatures and Records Act, or any other similar state laws based on the Uniform Electronic Transactions Act.

6. Effect of Headings. The Section headings herein are for convenience only and shall not affect the construction thereof.

---

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

QNITY ELECTRONICS, INC.

by /s/ Sharon Dobson  
Name: Sharon Dobson  
Title: Treasurer

*[Signature Page to Secured Notes Supplemental Indenture]*



---

EKC ADVANCED ELECTRONICS 2 JAPAN KABUSHIKI  
KAISHA

by /s/ Shinegori Kobayashi  
Name: Shinegori Kobayashi  
Title: Representative Director and President

DUPONT PERFORMANCE PRODUCTS JAPAN  
KABUSHIKI KAISHA

by /s/ Shinegori Kobayashi  
Name: Shinegori Kobayashi  
Title: Representative Director and President

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by /s/ Shinegori Kobayashi  
Name: Shinegori Kobayashi  
Title: Representative Director and President

LAIRD TECHNOLOGIES JAPAN, INC.

by /s/ Shinegori Kobayashi  
Name: Shinegori Kobayashi  
Title: Representative Director and President

*[Signature Page to Secured Notes Supplemental Indenture]*

---

SPECIALTY PRODUCTS JAPAN G.K.

The Representative Member:  
DuPont Electronic Materials CMP, LLC

by /s/ Shinegori Kobayashi

Name: Shinegori Kobayashi

Title: Representative Director and President

*[Signature Page to Secured Notes Supplemental Indenture]*

---

U.S. BANK TRUST COMPANY, NATIONAL  
ASSOCIATION, as Trustee and Notes Collateral Agent

by /s/ Mark DiGiacomo  
Name: Mark DiGiacomo  
Title: Vice President

*[Signature Page to Secured Notes Supplemental Indenture]*

**FIRST SUPPLEMENTAL INDENTURE**

FIRST SUPPLEMENTAL INDENTURE (this "First Supplemental Indenture") dated as of November 1, 2025, among Qnity Electronics, Inc., a Delaware corporation (the "Company"), each Subsidiary of the Company listed on the signature pages hereto (collectively, the "U.S. Subsidiary Guarantors"), and U.S. BANK TRUST COMPANY, NATIONAL ASSOCIATION, a national banking association, as trustee (the "Trustee") under this Indenture referred to below. Capitalized but undefined terms used herein shall have the meanings ascribed to them under the Indenture.

**WITNESSETH:**

WHEREAS the Company and the Trustee entered into an Indenture (the "Indenture") dated as of August 15, 2025, providing for the issuance of the Company's 6.250% Senior Unsecured Notes due 2033 (the "Notes");

WHEREAS Section 4.11 of this Indenture provides that under certain circumstances the Company is required to cause each U.S. Subsidiary Guarantor to execute and deliver to the Trustee a supplemental indenture pursuant to which such U.S. Subsidiary Guarantor shall unconditionally guarantee all the Company's obligations under the Notes pursuant to a supplemental indenture on the terms and conditions set forth herein and in this Indenture; and

WHEREAS pursuant to Section 9.01(a)(iv) of this Indenture, the Trustee and the Company are authorized to execute and deliver this First Supplemental Indenture;

NOW THEREFORE, in consideration of the foregoing and for other good and valuable consideration, the receipt of which is hereby acknowledged, each U.S. Subsidiary Guarantor, the Company, the Trustee mutually covenant and agree for the equal and ratable benefit of the Holders as follows:

1. Agreement to Guarantee. Each U.S. Subsidiary Guarantor hereby agrees, jointly and severally with all the existing Subsidiary Guarantors, to unconditionally guarantee the Company's obligations under the Notes on the terms and subject to the conditions set forth in Article 10 of this Indenture and to be bound by all other applicable provisions of this Indenture and the Notes.

2. Ratification of Indenture; Supplemental Indentures Part of Indenture. Except as expressly amended hereby, this Indenture is in all respects ratified and confirmed and all the terms, conditions and provisions thereof shall remain in full force and effect. This First Supplemental Indenture shall form a part of this Indenture for all purposes, and every Holder heretofore or hereafter authenticated and delivered shall be bound hereby.

---

3. Governing Law. **THIS FIRST SUPPLEMENTAL INDENTURE SHALL BE GOVERNED BY, AND CONSTRUED IN ACCORDANCE WITH, THE LAWS OF THE STATE OF NEW YORK.**

4. Trustee. The Trustee makes no representation as to the validity or sufficiency of this First Supplemental Indenture. In acting hereunder, the Trustee shall be entitled to all of the rights, privileges, protections, benefits, indemnities and immunities of the Trustee under this Indenture.

5. Counterparts. The parties may sign any number of copies of this First Supplemental Indenture. Each signed copy shall be an original, but all of them together represent the same agreement. Delivery of an executed counterpart of a signature page of this First Supplemental Indenture by email or other electronic means (including a “.pdf” or “.tif” file) shall be effective as delivery of a manually executed counterpart of this First Supplemental Indenture. The words “execution”, “signed”, “signature”, and words of like import in this First Supplemental Indenture or any agreement entered into in connection therewith shall be deemed to include electronic signatures or the keeping of records in electronic form, each of which shall be of the same legal effect, validity or enforceability as a manually executed signature or the use of a paper-based recordkeeping system, as the case may be, to the extent and as provided for in any applicable law, including the Federal Electronic Signatures in Global and National Commerce Act, the New York State Electronic Signatures and Records Act, or any other similar state laws based on the Uniform Electronic Transactions Act.

6. Effect of Headings. The Section headings herein are for convenience only and shall not affect the construction thereof.

---

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

QNITY ELECTRONICS, INC.

by /s/ Sharon Dobson  
Name: Sharon Dobson  
Title: Treasurer

*[Signature Page to Unsecured Notes Supplemental Indenture]*

---

DUPONT E&I HOLDING, INC.

by /s/ Lauren Luptak  
Name: Lauren Luptak  
Title: Vice President and Assistant Secretary

DUPONT ELECTRONIC MATERIALS CMP, LLC

by /s/ Lauren Luptak  
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*[Signature Page to Unsecured Notes Supplemental Indenture]*

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Name: Lauren Luptak  
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*[Signature Page to Unsecured Notes Supplemental Indenture]*



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KALREZ USA, LLC

by /s/ Lauren Luptak  
Name: Lauren Luptak  
Title: Vice President and Assistant Secretary

LAIRD TECHNOLOGIES, INC.

by /s/ Lauren Luptak  
Name: Lauren Luptak  
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PERFORMANCE SPECIALTY PRODUCTS NA, LLC

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ELECTRONICS JP HOLDING 2, INC.

by /s/ Lauren Luptak  
Name: Lauren Luptak  
Title: Vice President and Assistant Secretary

*[Signature Page to Unsecured Notes Supplemental Indenture]*

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ELECTRONICS JP HOLDING 3, INC.

by /s/ Lauren Luptak

Name: Lauren Luptak

Title: Vice President and Assistant Secretary

*[Signature Page to Unsecured Notes Supplemental Indenture]*

---

U.S. BANK TRUST COMPANY, NATIONAL  
ASSOCIATION, as Trustee

by /s/ Mark DiGiacomo  
Name: Mark DiGiacomo  
Title: Vice President

*[Signature Page to Unsecured Notes Supplemental Indenture]*

## SECOND SUPPLEMENTAL INDENTURE

SECOND SUPPLEMENTAL INDENTURE (this "Second Supplemental Indenture") dated as of November 2, 2025, among Qnity Electronics, Inc., a Delaware corporation (the "Company"), each Subsidiary of the Company listed on the signature pages hereto (collectively, the "Foreign Subsidiary Guarantors"), and U.S. BANK TRUST COMPANY, NATIONAL ASSOCIATION, a national banking association, as trustee (the "Trustee") under this Indenture referred to below. Capitalized but undefined terms used herein shall have the meanings ascribed to them under the Indenture.

## WITNESSETH:

WHEREAS the Company and the Trustee entered into an Indenture (the "Indenture") dated as of August 15, 2025, providing for the issuance of the Company's 6.250% Senior Unsecured Notes due 2033 (the "Notes");

WHEREAS Section 4.11 of this Indenture provides that under certain circumstances the Company is required to cause each Foreign Subsidiary Guarantor to execute and deliver to the Trustee a supplemental indenture pursuant to which such Foreign Subsidiary Guarantor shall unconditionally guarantee all the Company's obligations under the Notes pursuant to a supplemental indenture on the terms and conditions set forth herein and in this Indenture; and

WHEREAS pursuant to Section 9.01(a)(iv) of this Indenture, the Trustee and the Company are authorized to execute and deliver this Second Supplemental Indenture;

NOW THEREFORE, in consideration of the foregoing and for other good and valuable consideration, the receipt of which is hereby acknowledged, each Foreign Subsidiary Guarantor, the Company, the Trustee mutually covenant and agree for the equal and ratable benefit of the Holders as follows:

1. Agreement to Guarantee. Each Foreign Subsidiary Guarantor hereby agrees, jointly and severally with all the existing Subsidiary Guarantors, to unconditionally guarantee the Company's obligations under the Notes on the terms and subject to the conditions set forth in Article 10 of this Indenture and to be bound by all other applicable provisions of this Indenture and the Notes.

2. Ratification of Indenture; Supplemental Indentures Part of Indenture. Except as expressly amended hereby, this Indenture is in all respects ratified and confirmed and all the terms, conditions and provisions thereof shall remain in full force and effect. This Second Supplemental Indenture shall form a part of this Indenture for all purposes, and every Holder heretofore or hereafter authenticated and delivered shall be bound hereby.

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3. Governing Law. **THIS SECOND SUPPLEMENTAL INDENTURE SHALL BE GOVERNED BY, AND CONSTRUED IN ACCORDANCE WITH, THE LAWS OF THE STATE OF NEW YORK.**

4. Trustee. The Trustee makes no representation as to the validity or sufficiency of this Second Supplemental Indenture. In acting hereunder, the Trustee shall be entitled to all of the rights, privileges, protections, benefits, indemnities and immunities of the Trustee under this Indenture.

5. Counterparts. The parties may sign any number of copies of this Second Supplemental Indenture. Each signed copy shall be an original, but all of them together represent the same agreement. Delivery of an executed counterpart of a signature page of this Second Supplemental Indenture by email or other electronic means (including a “.pdf” or “.tif” file) shall be effective as delivery of a manually executed counterpart of this Second Supplemental Indenture. The words “execution”, “signed”, “signature”, and words of like import in this Second Supplemental Indenture or any agreement entered into in connection therewith shall be deemed to include electronic signatures or the keeping of records in electronic form, each of which shall be of the same legal effect, validity or enforceability as a manually executed signature or the use of a paper-based recordkeeping system, as the case may be, to the extent and as provided for in any applicable law, including the Federal Electronic Signatures in Global and National Commerce Act, the New York State Electronic Signatures and Records Act, or any other similar state laws based on the Uniform Electronic Transactions Act.

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

QNITY ELECTRONICS, INC.

by /s/ Sharon Dobson  
Name: Sharon Dobson  
Title: Treasurer

*[Signature Page to Unsecured Notes Supplemental Indenture]*

---

EKC ADVANCED ELECTRONICS 2 JAPAN KABUSHIKI  
KAISHA

by /s/ Shigenori Kobayashi  
Name: Shigenori Kobayashi  
Title: Representative Director and President

DUPONT PERFORMANCE PRODUCTS JAPAN  
KABUSHIKI KAISHA

by /s/ Shigenori Kobayashi  
Name: Shigenori Kobayashi  
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KAISHA

by /s/ Shigenori Kobayashi  
Name: Shigenori Kobayashi  
Title: Representative Director and President

EKC ADVANCED ELECTRONICS 3 JAPAN KABUSHIKI  
KAISHA

by /s/ Shigenori Kobayashi  
Name: Shigenori Kobayashi  
Title: Representative Director and President

LAIRD TECHNOLOGIES JAPAN, INC.

by /s/ Shigenori Kobayashi  
Name: Shigenori Kobayashi  
Title: Representative Director and President

*[Signature Page to Unsecured Notes Supplemental Indenture]*

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SPECIALTY PRODUCTS JAPAN G.K.

The Representative Member:  
DuPont Electronic Materials CMP, LLC

by /s/ Shigenori Kobayashi

Name: Shigenori Kobayashi

Title: Representative Director and President

*[Signature Page to Unsecured Notes Supplemental Indenture]*



---

U.S. BANK TRUST COMPANY, NATIONAL  
ASSOCIATION, as Trustee

by /s/ Mark DiGiacomo  
Name: Mark DiGiacomo  
Title: Vice President

*[Signature Page to Unsecured Notes Supplemental Indenture]*

**TAX MATTERS AGREEMENT**

**DATED AS OF NOVEMBER 1, 2025  
BY AND AMONG**

**DUPONT DE NEMOURS, INC.**

**AND**

**QNITY ELECTRONICS, INC.**

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## TABLE OF CONTENTS

|                                                                                                          | <u>Page</u> |
|----------------------------------------------------------------------------------------------------------|-------------|
| Section 1. Definition of Terms                                                                           | 1           |
| Section 2. Allocation of Tax Liabilities                                                                 | 10          |
| Section 2.01    General Rule                                                                             | 10          |
| Section 2.02    Allocation of Taxes                                                                      | 10          |
| Section 2.03    Allocation of Employment Taxes                                                           | 11          |
| Section 2.04    Straddle Period Allocation                                                               | 12          |
| Section 3. Preparation and Filing of Tax Returns                                                         | 12          |
| Section 3.01    Pre-Distribution Tax Returns                                                             | 12          |
| Section 3.02    Straddle Period Tax Returns                                                              | 12          |
| Section 3.03    Election by RemainCo to Prepare Tax Returns                                              | 12          |
| Section 3.04    Tax Reporting Practices                                                                  | 13          |
| Section 3.05    Consolidated or Combined Tax Returns                                                     | 13          |
| Section 3.06    Right to Review Tax Returns                                                              | 13          |
| Section 3.07    ElectronicsCo Carrybacks and Claims for Refund                                           | 14          |
| Section 3.08    Apportionment of Tax Assets                                                              | 14          |
| Section 3.09    Amended Tax Returns                                                                      | 15          |
| Section 4. Tax Payments                                                                                  | 16          |
| Section 4.01    Payment of Taxes                                                                         | 16          |
| Section 4.02    Indemnification Payments                                                                 | 17          |
| Section 4.03    Rights and Obligations Pursuant to the Specified Historic Transaction Agreements         | 17          |
| Section 4.04    Rights and Obligations Pursuant to the Other Historic Disposition Transaction Agreements | 19          |
| Section 5. Tax Refunds and Transfer Pricing Adjustments                                                  | 22          |
| Section 5.01    Tax Refunds                                                                              | 22          |
| Section 5.02    Transfer Pricing                                                                         | 22          |
| Section 6. Tax-Free Status                                                                               | 22          |
| Section 6.01    Restrictions on Electronics                                                              | 22          |
| Section 6.02    Restrictions on RemainCo                                                                 | 25          |
| Section 6.03    Procedures Regarding Opinions and Rulings                                                | 25          |
| Section 6.04    Liability for Tax-Related Losses                                                         | 26          |
| Section 7. Assistance and Cooperation                                                                    | 28          |
| Section 7.01    Assistance and Cooperation                                                               | 28          |
| Section 7.02    Income Tax Return Information                                                            | 29          |
| Section 7.03    Reliance by RemainCo                                                                     | 29          |
| Section 7.04    Reliance by ElectronicsCo                                                                | 30          |
| Section 8. Tax Records                                                                                   | 30          |
| Section 8.01    Retention of Tax Records                                                                 | 30          |
| Section 8.02    Access to Tax Records                                                                    | 31          |

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|               |                            |    |
|---------------|----------------------------|----|
| Section 8.03  | Preservation of Privilege  | 31 |
| Section 9.    | Tax Contests               | 31 |
| Section 9.01  | Notice                     | 31 |
| Section 9.02  | Control of Tax Contests    | 31 |
| Section 10.   | Effective Date             | 33 |
| Section 11.   | Survival of Obligations    | 33 |
| Section 12.   | Tax Treatment of Payments  | 33 |
| Section 13.   | Disagreements              | 33 |
| Section 13.01 | Discussion                 | 33 |
| Section 13.02 | Escalation                 | 33 |
| Section 13.03 | Referral to Tax Advisor    | 33 |
| Section 13.04 | Injunctive Relief          | 34 |
| Section 14.   | Expenses                   | 34 |
| Section 15.   | General Provisions         | 34 |
| Section 15.01 | Addresses and Notices      | 34 |
| Section 15.02 | Binding Effect             | 35 |
| Section 15.03 | Waiver                     | 36 |
| Section 15.04 | Severability               | 36 |
| Section 15.05 | Authority                  | 36 |
| Section 15.06 | Further Action             | 36 |
| Section 15.07 | Integration                | 36 |
| Section 15.08 | Construction               | 36 |
| Section 15.09 | No Double Recovery         | 37 |
| Section 15.10 | Currency                   | 37 |
| Section 15.11 | Counterparts               | 37 |
| Section 15.12 | Governing Law              | 37 |
| Section 15.13 | Jurisdiction               | 38 |
| Section 15.14 | Amendment                  | 38 |
| Section 15.15 | ElectronicsCo Subsidiaries | 38 |
| Section 15.16 | Successors                 | 38 |
| Section 15.17 | Injunctions                | 38 |

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## TAX MATTERS AGREEMENT

This TAX MATTERS AGREEMENT (this “**Agreement**”) is entered into as of November 1, 2025, by and among DuPont de Nemours, Inc. (“**RemainCo**”), a Delaware corporation and Qnity Electronics, Inc. (“**ElectronicsCo**”), a Delaware corporation and a wholly owned subsidiary of RemainCo (RemainCo and ElectronicsCo are sometimes collectively referred to herein as the “**Companies**” or the “**parties**” and, as the context requires, individually referred to herein as a “**Company**” or a “**party**”).

### RECITALS

WHEREAS, the Board of Directors of RemainCo has determined that it would be appropriate and desirable to separate completely the ElectronicsCo Business from RemainCo;

WHEREAS, as of the date hereof, RemainCo is the common parent of an affiliated group of corporations, including ElectronicsCo, which has elected to file RemainCo Federal Consolidated Income Tax Returns;

WHEREAS, the Companies intend to undertake the ElectronicsCo Spin Contribution;

WHEREAS, the Companies intend to undertake the Distribution;

WHEREAS, the Companies intend for the ElectronicsCo Spin Contribution and the Distribution to qualify for the Tax-Free Status; and

WHEREAS, the Companies desire to provide for and agree upon the allocation between the parties of liabilities, and entitlements to refunds thereof, for certain Taxes arising prior to, at the time of, and subsequent to the Distribution, and to provide for and agree upon other matters relating to Taxes and to set forth certain covenants and indemnities relating to the Tax-Free Status of the ElectronicsCo Spin Contribution and the Distribution.

NOW THEREFORE, in consideration of the mutual agreements contained herein, the parties hereby agree as follows:

**Section 1. Definition of Terms.** For purposes of this Agreement (including the recitals hereof), the following terms have the following meanings, and capitalized terms used but not otherwise defined herein shall have the meaning ascribed to them in the Separation Agreement:

“**Active Trade or Business**” means, with respect to ElectronicsCo, the active conduct (as defined in Section 355(b)(2) of the Code and the Treasury Regulations thereunder) of the ElectronicsCo Business, respectively, as conducted immediately prior to the Distribution, or, with respect to another Separation Transaction intended to qualify as tax-free pursuant to Section 355 of the Code or analogous provisions of state, local or non-U.S. Tax Law, the active conduct (as defined in Section 355(b)(2) of the Code and the regulations thereunder, or the analogous provisions of state, local or non-U.S. Tax Law) by the relevant ElectronicsCo Entity of the ElectronicsCo Business relating to such ElectronicsCo Entity as conducted immediately prior to such Separation Transaction.

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

“**Affiliate**” has the meaning set forth in the Separation Agreement.

“**Agreement**” means this Tax Matters Agreement.

“**Amended Tax Return**” has the meaning set forth in Section 3.09(b) of this Agreement.

“**Ancillary Agreement**” has the meaning set forth in the Separation Agreement.

“**Board Certificate**” has the meaning set forth in Section 6.01(d) of this Agreement.

“**Business Day**” has the meaning set forth in the Separation Agreement.

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

“**Companies**” and “**Company**” have the meaning provided in the first sentence of this Agreement.

“**Controlling Party**” has the meaning set forth in Section 9.02(d) of this Agreement.

“**Derby TA**” means that certain transaction agreement, dated as of August 19, 2023, by and between RemainCo, Specialty Electronic Materials Netherlands B.V., a private company with limited liability (besloten vennootschap met beperkte aansprakelijkheid), Derby Buyer LLC, a Delaware limited liability company, and Derby Group Holdings LLC, a Delaware limited liability company, as modified, amended and/or supplemented at or prior to the Distribution.

“**DGCL**” means the Delaware General Corporation Law.

“**Dispute**” has the meaning set forth in Section 13.01 of this Agreement.

“**Distribution**” has the meaning set forth in the Separation Agreement.

“**Distribution Date**” means the date of the Distribution.

“**Distribution Taxes**” means any Taxes attributable to the ElectronicsCo Spin Contribution and the Distribution.

“**DWDP TMA**” has the meaning set forth in the Separation Agreement.

“**ElectronicsCo Business**” has the meaning set forth in the Separation Agreement.

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“**ElectronicsCo**” has the meaning provided in the first sentence of this Agreement.

“**ElectronicsCo Capital Stock**” means all classes or series of capital stock of ElectronicsCo, including (i) the ElectronicsCo Common Stock, (ii) all options, warrants and other rights to acquire such capital stock and (iii) all instruments properly treated as stock in ElectronicsCo for U.S. federal income tax purposes.

“**ElectronicsCo Carryback**” means any net operating loss, net capital loss, excess tax credit, or other similar Tax Asset of any member of the ElectronicsCo Group which may or must be carried from one Tax Period to another prior Tax Period under the Code or other applicable Tax Law.

“**ElectronicsCo Common Stock**” has the meaning set forth in the Separation Agreement.

“**ElectronicsCo Entity**” means an entity which will be a member of the ElectronicsCo Group immediately after the Distribution.

“**ElectronicsCo Fixed Ratio**” has the meaning assigned to “Applicable ElectronicsCo Percentage” as set forth in the Separation Agreement.

“**ElectronicsCo Group**” means (i) ElectronicsCo and its Affiliates, as determined immediately after the Distribution, as well as (ii) any entity which (A) was an Affiliate of RemainCo or an Affiliate of a member of the ElectronicsCo Group described in clause (i), (B) conducted solely or predominantly the ElectronicsCo Business, and (C) is no longer an Affiliate of RemainCo as of the Distribution.

“**ElectronicsCo Separate Return**” means any Tax Return of or including any member of the ElectronicsCo Group (including any consolidated, combined or unitary return) that does not include any member of the RemainCo Group.

“**ElectronicsCo Spin Contribution**” has the meaning set forth in the Separation Agreement.

“**Employee Matters Agreement**” means the Employee Matters Agreement, dated as of November 1, 2025 by and among RemainCo and ElectronicsCo.

“**Employment Tax**” means any Tax the liability or responsibility for which is allocated pursuant to the Employee Matters Agreement.

“**Federal Income Tax**” means any Tax imposed by Subtitle A of the Code other than an Employment Tax, and any interest, penalties, additions to tax, or additional amounts in respect of the foregoing.

“**Fifty-Percent or Greater Interest**” has the meaning ascribed to such term for purposes of Sections 355(d) and (e) of the Code.

“**Filing Date**” has the meaning set forth in Section 6.04(d) of this Agreement.

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“**Final Determination**” shall have the meaning given to the term “determination” by Section 1313 of the Code with respect to U.S. federal Tax matters and with respect to any state, local or non-U.S. Tax matters, means any final settlement with a relevant Tax Authority that does not provide a right to appeal or any final decision by a court with respect to which no timely appeal is pending and as to which the time for filing such appeal has expired.

“**Gain Recognition Agreement**” means a gain recognition agreement as described in Treasury Regulations Section 1.367(a)-8 or any successor provision thereto.

“**Group**” means the RemainCo Group and/or the ElectronicsCo Group, as the context requires.

“**Indemnatee**” has the meaning set forth in Section 4.02(b) of this Agreement.

“**Indemnitor**” has the meaning set forth in Section 4.02(b) of this Agreement.

“**IRS**” means the United States Internal Revenue Service.

“**Joint Return**” means any Tax Return that actually includes, by election or otherwise, one or more members of more than one of the RemainCo Group and the ElectronicsCo Group.

“**Law**” has the meaning set forth in the Separation Agreement.

“**Majority Party**” has the meaning set forth in Section 3.06(a) of this Agreement.

“**Milan TA**” means that certain transaction agreement, dated as of February 17, 2022, by and between RemainCo, DuPont E&I Holding, Inc. (f/k/a Danisco European Holding, Inc.), a Delaware corporation and Celanese Corporation, a Delaware corporation, as modified, amended and/or supplemented at or prior to the Distribution.

“**Minority Party**” has the meaning set forth in Section 3.09(b) of this Agreement.

“**Neptune TMA**” means that certain tax matters agreement, dated as of February 1, 2021, entered into by and among RemainCo, Nutrition & Biosciences, Inc., and International Flavors & Fragrances Inc., as modified, amended and/or supplemented at or prior to the Distribution.

“**Non-Controlling Party**” has the meaning set forth in Section 9.02(d) of this Agreement.

“**Notified Action**” has the meaning set forth in Section 6.03(a) of this Agreement.

“**Other Historic Disposition Transaction Agreements**” means so much of any transaction agreements (other than the Specified Historic Transaction Agreements), entered into with third-parties (other than, for the avoidance of doubt, ElectronicsCo or its Subsidiaries) outside the ordinary course of business prior to the Distribution Date, which relates to the acquisition or disposition of stock, assets, businesses or operations of RemainCo or its Subsidiaries (as of such time) as relates to Tax sharing, Tax allocation, Tax indemnification or Tax refunds.



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**“Past Practices”** has the meaning set forth in Section 3.04(b) of this Agreement.

**“Payment Date”** means (i) with respect to any RemainCo Federal Consolidated Income Tax Return, (A) the due date for any required installment of estimated taxes determined under Section 6655 of the Code, (B) the due date (determined without regard to extensions) for filing the return determined under Section 6072 of the Code, or (C) the date the return is filed, as the case may be, and (ii) with respect to any other Tax Return, the corresponding dates determined under the applicable Tax Law.

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

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

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

**“Pre-Distribution Period Taxes”** means any and all Taxes of the Companies and their Subsidiaries (as determined immediately prior to the Distribution) for any Tax Period ending on or before the Distribution Date.

**“Pre-Distribution Tax Returns”** has the meaning set forth in Section 3.01 of this Agreement.

**“Preliminary Tax Advisor”** has the meaning set forth in Section 13.03 of this Agreement.

**“Preparing Company”** means, with respect to any Tax Return, the Company having the right to prepare such Tax Return as determined under Section 3 of this Agreement.

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

**“Proposed Acquisition Transaction”** means, with respect to ElectronicsCo, a transaction or series of transactions (or any agreement, understanding or arrangement, within the meaning of Section 355(e) of the Code and Treasury Regulation Section 1.355-7, or any other regulations promulgated thereunder, to enter into a transaction or series of transactions), whether such transaction is supported by ElectronicsCo’s management or shareholders, is a hostile acquisition, or otherwise, as a result of which ElectronicsCo would merge or consolidate with any other Person or as a result of which any Person or any group of related Persons would (directly or indirectly) acquire, or have the right to acquire, from ElectronicsCo and/or one or

more holders of outstanding shares of ElectronicsCo Capital Stock, a number of shares of such ElectronicsCo Capital Stock that would, when combined with any other changes in ownership of ElectronicsCo Capital Stock pertinent for purposes of Section 355(e) of the Code, comprise 40% or more of (i) the value of all outstanding shares of stock of ElectronicsCo as of the date of such transaction, or in the case of a series of transactions, the date of the last transaction of such series, or (ii) the total combined voting power of all outstanding shares of voting stock of ElectronicsCo as of the date of such transaction, or in the case of a series of transactions, the date of the last transaction of such series. Notwithstanding the foregoing, a Proposed Acquisition Transaction shall not include (i) the adoption by ElectronicsCo of a shareholder rights plan or (ii) issuances by ElectronicsCo that satisfy Safe Harbor VIII (relating to acquisitions in connection with a person's performance of services) or Safe Harbor IX (relating to acquisitions by a retirement plan of an employer) of Treasury Regulation Section 1.355-7(d). For purposes of determining whether a transaction constitutes an indirect acquisition, any recapitalization resulting in a shift of voting power or any redemption of shares of stock shall be treated as an indirect acquisition of shares of stock by the non-exchanging shareholders. This definition and the application thereof is intended to monitor compliance with Section 355(e) of the Code and shall be interpreted accordingly. Any clarification of, or change in, the statute or regulations promulgated under Section 355(e) of the Code shall be incorporated in this definition and its interpretation.

**"RemainCo"** has the meaning provided in the first sentence of this Agreement.

**"RemainCo Affiliated Group"** means the affiliated group (as that term is defined in Section 1504 of the Code and the regulations thereunder) of which RemainCo is the common parent.

**"RemainCo Federal Consolidated Income Tax Return"** means any United States Federal Income Tax Return for the RemainCo Affiliated Group.

**"RemainCo Fixed Ratio"** has the meaning assigned to "Applicable RemainCo Percentage" as set forth in the Separation Agreement.

**"RemainCo Group"** means RemainCo and its Affiliates, excluding any entity that is a member of the ElectronicsCo Group, as determined immediately after the Distribution.

**"RemainCo Business"** has the meaning provided in the Separation Agreement.

**"RemainCo Separate Return"** means any Tax Return of or including any member of the RemainCo Group (including any consolidated, combined or unitary return) that does not include any member of the ElectronicsCo Group.

**"Representation Letters"** means the statements of facts and representations, officer's certificates, representation letters and any other materials delivered or deliverable by RemainCo, its Affiliates or representatives thereof in connection with the rendering by Tax Advisors, and/or the issuance by the IRS or other Tax Authority, of the Tax Opinions/Rulings.

**"Required Company"** means the Company required under applicable Tax Law to pay to a Tax Authority the Taxes required to be paid with respect to a given Tax Return.

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“**Retention Date**” has the meaning set forth in Section 8.01 of this Agreement.

“**Reviewing Company**” has the meaning set forth in Section 3.06(a) of this Agreement.

“**Ruling**” means any private letter ruling issued by the IRS to RemainCo in connection with the Separation Transactions.

“**Ruling Request**” means any filing by RemainCo with the IRS or other Tax Authority requesting a ruling regarding certain Tax consequences of the Separation Transactions (including all attachments, exhibits, and other materials submitted with such letter) and any amendment or supplement to such letter.

“**Section 6.01(d) Acquisition Transaction**” means any transaction or series of transactions that is not a Proposed Acquisition Transaction but would be a Proposed Acquisition Transaction if the percentage reflected in the definition of Proposed Acquisition Transaction were twenty-five percent (25%) instead of forty percent (40%).

“**Separate Return**” means a RemainCo Separate Return and/or an ElectronicsCo Separate Return, as the context requires.

“**Separation Agreement**” means the Separation Agreement, as amended from time to time, by and among RemainCo and ElectronicsCo dated as of November 1, 2025.

“**Separation Plan**” means the diagram depicting the transactions undertaken in connection with the separation of the ElectronicsCo Business from the RemainCo Business, attached as Exhibit A hereto.

“**Separation Transactions**” means those transactions undertaken by the Companies and their Affiliates pursuant to the Separation Plan to separate ownership of the ElectronicsCo Business from ownership of the RemainCo Business.

“**Specified Historic Transaction Agreements**” means the DWDP TMA, the Neptune TMA and so much of the Milan TA and Derby TA as relates to Tax sharing, Tax allocation, Tax indemnification or Tax refunds.

“**Specified Taxes**” has the meaning set forth in Section 2.02(c) of this Agreement.

“**Specified Tax Credit Reduction**” has the meaning set forth in Section 2.02(d) of this Agreement.

“**Specified Transactions**” means the transactions set forth in Exhibit B attached hereto.

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

“**Straddle Period Tax Return**” has the meaning set forth in Section 3.02 of this Agreement.

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“**Straddle Period Taxes**” means any and all Taxes of the Companies and their Subsidiaries (as determined immediately prior to the Distribution) for any Straddle Period.

“**Subsidiary**” has the meaning set forth in the Separation Agreement.

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

“**Tax Advisor**” means a tax counsel or accountant, in each case of recognized national standing.

“**Tax Assets**” means a net operating loss, net capital loss, unused investment credit, unused foreign tax credit, tax credit carryover, previously taxed income, excess charitable contribution, general business credit, research and development credit, earnings and profits, Tax basis, or any other losses, deductions, credits or Tax Items that could reduce a Tax liability or create a Tax Benefit.

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

“**Tax Benefit**” means any refund, credit, or other reduction in an otherwise required liability for Taxes.

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

“**Tax-Free Status**” means the qualification of the ElectronicsCo Spin Contribution and Distribution, taken together, (i) as a reorganization described in Sections 355(a) and 368(a)(1)(D) of the Code, (ii) as a transaction in which the stock distributed thereby is “qualified property” for purposes of Sections 355(d), 355(e) and 361(c) of the Code and (iii) as a transaction in which RemainCo, ElectronicsCo and the shareholders of RemainCo recognize no income or gain for U.S. federal income tax purposes pursuant to Sections 355, 361 and 1032 of the Code, other than, in the case of RemainCo and ElectronicsCo, intercompany items or excess loss accounts taken into account pursuant to the Treasury Regulations promulgated pursuant to Section 1502 of the Code.

“**Tax Item**” means, with respect to any income Tax, any item of income, gain, loss, deduction, or credit.

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**“Tax Opinions/Rulings”** means the opinions of Tax Advisors and/or the rulings by the IRS or other Tax Authorities deliverable to RemainCo in connection with the ElectronicsCo Spin Contribution and the Distribution or otherwise with respect to the Separation Transactions.

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

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

**“Tax-Related Losses”** means (i) all Taxes (including interest and penalties thereon) imposed pursuant to any settlement, Final Determination, judgment or otherwise; (ii) all accounting, legal and other professional fees, and court costs incurred in connection with such Taxes, as well as any other out-of-pocket costs incurred in connection with such Taxes; and (iii) all costs, expenses and damages associated with stockholder litigation or controversies and any amount paid by RemainCo, ElectronicsCo or any of their Affiliates in respect of the liability of shareholders, whether paid to shareholders or to the IRS or any other Tax Authority, in each case, resulting from the failure of the ElectronicsCo Spin Contribution and/or the Distribution to qualify for the Tax-Free Status or from the failure of a Separation Transaction to have the tax treatment described in the Tax Opinions/Rulings or the Separation Plan.

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

**“Transfer Pricing Adjustment”** means any proposed or actual allocation by a Tax Authority of any Tax Item between or among any member of the RemainCo Group and any member of the ElectronicsCo Group with respect to any Tax Period ending prior to or on the Distribution Date or the portion of any Straddle Period ending on the Distribution Date.

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

**“Unqualified Tax Opinion”** means an unqualified “will” opinion of a Tax Advisor, which Tax Advisor is acceptable to RemainCo, on which RemainCo may rely to the effect that a transaction will not affect the Tax-Free Status or, with respect to any other Separation Transaction, the qualification of such Separation Transaction under U.S. federal, state, local or non-U.S. Tax Law as wholly or partially tax-free or tax-deferred. Any such opinion must assume that the ElectronicsCo Spin Contribution and the Distribution would have qualified for the Tax-Free Status or that such other Separation Transaction would have qualified for such wholly or partially tax-free or tax-deferred treatment, as applicable, if the transaction in question did not occur.

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## Section 2. Allocation of Tax Liabilities.

### *Section 2.01 General Rule.*

(a) *RemainCo Liability.* RemainCo shall be liable for, and shall indemnify and hold harmless the ElectronicsCo Group from and against any liability for, without duplication:

- (i) Taxes which are allocated to RemainCo pursuant to Sections 2.02(a)(iv)-(vi); and
- (ii) to the extent not also described in Section 2.02(b)(iv)-(vi), Taxes which are allocated to RemainCo pursuant to Sections 2.02(a)(i)-(iii).

(b) *ElectronicsCo Liability.* ElectronicsCo shall be liable for, and shall indemnify and hold harmless the RemainCo Group from and against any liability for, without duplication:

- (i) Taxes which are allocated to ElectronicsCo pursuant to Section 2.02(b)(iv)-(vi);
- (ii) to the extent not also described in Sections 2.02(a)(iv)-(vi), Taxes which are allocated to ElectronicsCo pursuant to Section 2.02(b)(i)-(iii); and
- (iii) Taxes which are allocated to ElectronicsCo pursuant to Section 2.02(c).

*Section 2.02 Allocation of Taxes.* Except as provided in Section 2.03, any and all Taxes shall be allocated as follows:

(a) *RemainCo Tax Liability.* Except as provided in Section 2.02(c), RemainCo shall be allocated the following, without duplication:

- (i) the RemainCo Fixed Ratio of any and all Pre-Distribution Period Taxes;
- (ii) the RemainCo Fixed Ratio of any and all Straddle Period Taxes allocated to a Pre-Distribution Period;
- (iii) the RemainCo Fixed Ratio of any and all Distribution Taxes (other than any Tax-Related Losses for which RemainCo is responsible pursuant to Section 6.04);
- (iv) Tax-Related Losses for which RemainCo is responsible pursuant to Section 6.04 of this Agreement;
- (v) Taxes as a result of any action or inaction taken by RemainCo or any of its Affiliates in violation of the restrictions set forth in Exhibit B with respect to the Specified Transactions; and

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(vi) Taxes resulting from any breach by RemainCo of any covenant in this Agreement, the Separation Agreement or any Ancillary Agreement.

(b) *ElectronicsCo Tax Liability*. Except as provided in Section 2.02(e), ElectronicsCo shall be allocated the following:

- (i) the ElectronicsCo Fixed Ratio of any and all Pre-Distribution Period Taxes;
- (ii) the ElectronicsCo Fixed Ratio of any and all Straddle Period Taxes allocated to a Pre-Distribution Period;
- (iii) the ElectronicsCo Fixed Ratio of any and all Distribution Taxes (other than any Tax-Related Losses for which ElectronicsCo is responsible pursuant to Section 6.04);
- (iv) Tax-Related Losses for which ElectronicsCo is responsible pursuant to Section 6.04 of this Agreement;
- (v) Taxes as a result of any action or inaction taken by ElectronicsCo or any of its Affiliates in violation of the restrictions set forth in Exhibit B with respect to the Specified Transactions; and
- (vi) Taxes resulting from any breach by ElectronicsCo of any covenant in this Agreement, the Separation Agreement or any Ancillary Agreement.

(c) *Specified Tax Liabilities*. Notwithstanding the forgoing, ElectronicsCo shall be allocated one hundred percent (100%) of the Taxes set forth in Exhibit C (the “**Specified Taxes**”).

(d) To the extent that a payment of Specified Taxes by ElectronicsCo or any member of the ElectronicsCo Group results in a Tax credit that reduces the amount of Taxes otherwise allocated to RemainCo pursuant to Section 2.02(a) (calculated on a with and without basis), the amount of such reduction (a “**Specified Tax Credit Reduction**”) shall reduce amounts otherwise owed by ElectronicsCo to RemainCo pursuant to Section 4 with respect to the taxable year in which such Specified Tax Credit Reduction occurs, with the amount of such Specified Tax Credit Reduction determined in accordance with Exhibit C. If the amount of such Specified Tax Credit Reduction shall exceed the amounts otherwise owed by ElectronicsCo to RemainCo pursuant to Section 4 with respect to the taxable year in which such Specified Tax Credit Reduction occurs, RemainCo shall pay to ElectronicsCo the amount of such excess.

*Section 2.03 Allocation of Employment Taxes*. Notwithstanding anything contained herein to the contrary, this Agreement, including Section 2 hereof, shall not apply with respect to Employment Taxes. Employment Taxes shall be allocated as provided in the Employee Matters Agreement.

*Section 2.04 Straddle Period Allocation.* For purposes of this Agreement, if the Distribution occurs during a Straddle Period, Taxes for the entire taxable period (including, for example, Subpart F income under Section 951 of the Code) shall be allocated, on the one hand, to the portion of the taxable period ending on the Distribution Date, and on the other hand, to the portion of the taxable period beginning on the day after the Distribution Date, on a “closing of the books” method as of the end of the Distribution Date, assuming that the taxable year of the relevant entity, and its Subsidiaries, ended for all applicable Tax purposes as of the end of the Distribution Date; provided that property Taxes and other similar periodic Taxes, and exemptions, allowances or deductions that are calculated on an annual or periodic basis shall be allocated between such portions in proportion to the number of days in each such portion and, for these purposes, a taxable year shall be deemed to consist of twelve (12) months and each such month shall be deemed to consist of thirty (30) days. For the avoidance of doubt, the “closing of the books” method shall deem any tax period beginning before but ending after an applicable date to end on the applicable date; provided further that, to the extent the Distribution Date is not the last day of a month, then, solely for purposes of this Section 2.04, “Distribution Date” shall be the last day of the month nearest to the date of the Distribution. For purposes of allocating foreign tax credits between the portion of any Straddle Period ending on the Distribution Date, on one hand, and the portion of any Straddle Period beginning on the day after the Distribution Date, on the other hand, to the extent such foreign tax credits are actually allocated under applicable Law (including the United States Treasury Regulations under Section 1502 of the Code) to the period ending on the Distribution Date, such foreign tax credits shall be allocated to the period ending on the Distribution Date for purposes of the “closing of the books” method described herein. Subject to, and except as provided in the preceding sentence, foreign tax credits for any Straddle Period shall be allocated to the portion of such period in which the transaction giving rise to the related foreign taxes occurred.

### **Section 3. Preparation and Filing of Tax Returns.**

*Section 3.01 Pre-Distribution Tax Returns.* Subject to Section 3.03, following the Distribution, the party responsible (or whose Subsidiary is responsible) under applicable Law for filing any Tax Return required to be filed by the Companies or their Subsidiaries for any Tax Period ending on or prior to the Distribution Date (a “**Pre-Distribution Tax Return**”) shall prepare and file, or cause to be prepared and filed, such Pre-Distribution Tax Return.

*Section 3.02 Straddle Period Tax Returns.* Subject to Section 3.03, following the Distribution, the party responsible (or whose Subsidiary is responsible) under applicable Law for filing any Tax Return required to be filed by the Companies or their Subsidiaries for any Straddle Period (a “**Straddle Period Tax Return**”) shall prepare and file, or cause to be prepared and filed, such Straddle Period Tax Return.

*Section 3.03 Election by RemainCo to Prepare Tax Returns.* In the case of any Pre-Distribution Tax Return or Straddle Period Tax Return for which RemainCo is not the party responsible for preparing such Tax Return, as determined under Section 3.01 or Section 3.02, as applicable, RemainCo may elect (in its sole discretion) to prepare such Tax Return; provided that, for such election to be valid, RemainCo shall provide ElectronicsCo with written notice of such election prior to the later of (i) January 31, 2026 or (ii) December 31 of the calendar year in which the Tax Period to which such Tax Return relates ends (or, if the Tax Return is due prior to such date, RemainCo shall provide notice to ElectronicsCo within five (5)



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Business Days of the end of the Tax Period to which such Tax Returns relates). If RemainCo makes a valid election pursuant to the foregoing sentence, RemainCo will be the Preparing Company and ElectronicsCo will be the Reviewing Company, in each case, with respect to the applicable Tax Return for purposes of Section 3.06.

*Section 3.04 Tax Reporting Practices.*

(a) *RemainCo General Rule.* Except as provided in Section 3.04(c), RemainCo shall prepare any Tax Return with respect to which it is the Preparing Company under Section 3.01 or Section 3.02 in accordance with reasonable Tax accounting practices selected by RemainCo.

(b) *ElectronicsCo General Rule.* Except as provided in Section 3.04(c), ElectronicsCo shall prepare any Tax Return with respect to which it is the Preparing Company under Section 3.01 or Section 3.02, in accordance with past practices, accounting methods, elections or conventions (“**Past Practices**”) used with respect to such Tax Returns in question, and to the extent any items are not covered by Past Practices, in accordance with reasonable Tax accounting practices selected by ElectronicsCo.

(c) *Reporting of Separation Transactions.* The Tax treatment of the Separation Transactions reported on any Tax Return shall be consistent with the treatment thereof in the Tax Opinions/Rulings, taking into account the jurisdiction in which such Tax Returns are filed. The Tax treatment, including purchase price allocations, where relevant, of any Separation Transaction reported on any Tax Return for which ElectronicsCo is the Preparing Company shall be consistent with that on any Tax Return filed or to be filed by RemainCo or any member of the RemainCo Group or caused or to be caused to be filed by RemainCo. At the request of ElectronicsCo, RemainCo shall reasonably cooperate in good faith to timely provide to ElectronicsCo such information, including anticipated filing positions, necessary to permit ElectronicsCo to comply with the preceding sentence.

*Section 3.05 Consolidated or Combined Tax Returns.* ElectronicsCo will elect and join, and will cause its respective Affiliates to elect and join, in filing any Joint Returns that RemainCo determines are required to be filed or that RemainCo elects to file.

*Section 3.06 Right to Review Tax Returns.*

(a) *General.* The Preparing Company with respect to any material Tax Return shall make the portion of such Tax Return and related workpapers which are relevant to the determination of the other Company’s rights or obligations under this Agreement available for review by such other Company at its request (the “**Reviewing Company**”), to the extent (i) such Tax Return relates to Taxes for which the Reviewing Company would reasonably be expected to be liable, (ii) such Tax Return relates to Taxes for which the Reviewing Company would reasonably be expected to be liable in whole or in part for any additional Taxes owing as a result of adjustments to the amount of such Taxes reported on such Tax Return, (iii) such Tax Return relates to Taxes for which the Reviewing Company would reasonably be expected to have a claim for Tax Benefits under this Agreement, or (iv) the Reviewing Company reasonably determines that it must inspect such Tax Return to confirm compliance with the terms of this Agreement. The Preparing Company shall (A) use its reasonable best efforts to make such

portion of such Tax Return available for review as required under this paragraph sufficiently in advance of the due date for filing of such Tax Return to provide the Reviewing Company with a meaningful opportunity to analyze and comment on such Tax Return and (B) consider any such comments which are reasonable before filing such Tax Return, taking into account the Person(s) responsible for payment of the Tax (if any) reported on such Tax Return and whether the amount of Tax liability allocable to the Reviewing Company with respect to such Tax Return is material. The Companies shall attempt in good faith to resolve any issues arising out of the review of such Tax Return. If any disagreement with respect to such Tax Return is not resolved following a good faith attempt by the Companies to resolve such disagreement, the position of the Company bearing the greatest liability for Taxes reflected on such Tax Return, determined pursuant to Section 2.02 (the “Majority Party”), shall prevail, except to the extent such position is not supportable by a “more likely than not” or higher level of confidence, or is inconsistent with the requirements of Section 3.04.

(b) *Material Tax Returns.* For purposes of Section 3.06(a), a Tax Return is “material” if it (i) could reasonably be expected to reflect (A) a Tax liability equal to or in excess of \$150,000, (B) a credit or credits equal to or in excess of \$150,000, (C) a loss or losses equal to or in excess of \$500,000, in each case with respect to the Reviewing Company or (ii) with respect to a Pre-Distribution Tax Return or Straddle Period Tax Return, is not described in clause (i) and is reasonably requested for review by the Company that is not the Preparing Company.

*Section 3.07 ElectronicsCo Carrybacks and Claims for Refund.* ElectronicsCo hereby agree that (i) unless RemainCo consents in writing (such consent not to be unreasonably withheld, conditioned or delayed), no Adjustment Request with respect to any Tax Return for a Pre-Distribution Period or Straddle Period shall be filed, and (ii) ElectronicsCo shall make or not make any available elections to waive the right to claim in any Pre-Distribution Period or Straddle Period with respect to any Tax Return any ElectronicsCo Carryback arising in a Post-Distribution Period at the direction of RemainCo (in RemainCo’s sole discretion), and (iii) unless RemainCo consents in writing (such consent not to be unreasonably withheld, conditioned or delayed), no affirmative election (which, for the avoidance of doubt, shall not include any election required by applicable Law) shall be made to claim any such ElectronicsCo Carryback. In the event that ElectronicsCo is required under applicable Tax Law to claim any ElectronicsCo Carryback with respect to a Pre-Distribution Period or Straddle Period, ElectronicsCo shall provide notice of such ElectronicsCo Carryback to RemainCo at least fifteen (15) Business Days prior to claiming such ElectronicsCo Carryback.

*Section 3.08 Apportionment of Tax Assets.* RemainCo may in good faith advise ElectronicsCo in writing of the amount, if any, of any Tax Assets, which RemainCo determines, in its sole and absolute discretion, shall be allocated or apportioned to the ElectronicsCo Group, under applicable Law or may provide ElectronicsCo relevant information for making such determination on an as-is basis; provided that this Section 3.08 shall not be construed as obligating RemainCo to undertake any such determination or provide any such information. For the avoidance of doubt, RemainCo makes no representation or warranty as to the accuracy or completeness of any such determination or information. ElectronicsCo and all members of the ElectronicsCo Group shall prepare all Tax Returns in accordance with any such determination. ElectronicsCo agrees that it shall not dispute RemainCo’s allocation or apportionment of Tax Assets. ElectronicsCo may request that RemainCo undertake a

determination of the portion, if any, of any particular Tax Assets to be allocated or apportioned to the ElectronicsCo Group under applicable Law; provided that to the extent that RemainCo determines, in its sole and absolute discretion, not to undertake such determination, or does not otherwise advise ElectronicsCo of its intention to undertake such determination within twenty (20) Business Days of the receipt of such request, ElectronicsCo shall be permitted to undertake such determination at its own cost and expense and shall notify RemainCo of its determination, which determination shall not be binding upon RemainCo. Notwithstanding anything to the contrary contained herein, for the avoidance of doubt, RemainCo shall bear no liability to ElectronicsCo for any determinations made by RemainCo pursuant to this Section 3.08 if any such determination shall be found or asserted to be inaccurate.

*Section 3.09 Amended Tax Returns.*

(a) Except as otherwise required by applicable Tax Law or provided in this Section 3.09, none of the Companies nor any of their Affiliates shall file any amended Tax Return for any Pre-Distribution Period or Straddle Period.

(b) With respect to any Tax Return for a Pre-Distribution Period or Straddle Period, the Majority Party (determined prior to the amendment of such Tax Return) may file an amendment to such Tax Return (an “**Amended Tax Return**”); provided that to the extent the other Company has any liability for Taxes on such Amended Tax Returns (the “**Minority Party**”), the Majority Party must (i) provide notice of its intent to file such Amended Tax Return to the Minority Party at least ten (10) Business Days prior to the filing of any such Amended Tax Return, (ii) reasonably cooperate and consult with the Minority Party to consider the Tax implications of filing such Amended Tax Return and (iii) indemnify the Minority Party to the extent the filing of any such Amended Tax Return could reasonably be expected to increase (by an amount equal to or in excess of \$150,000) the Minority Party’s (A) indemnification obligations under this Agreement or (B) liability for Taxes in any Post-Distribution Period; provided, further, that in no event shall the Majority Party be required to obtain the consent of the Minority Party prior to the filing of any Amended Tax Return pursuant to this Section 3.09(b). Notwithstanding the foregoing, the Parties shall discuss in good faith whether a particular Amended Tax Return may be required to be filed or may be in the mutual best interests of the Parties to be filed, and if the Parties so determine (by way of mutual agreement of each Party’s Vice President of Tax (or other similar corporate executive)), after discussing in good faith, then the Majority Party shall not be required to indemnify the Minority Party in the manner set forth in the preceding sentence. To the extent the Minority Party is the party responsible under applicable Law for the filing of a relevant Amended Tax Return, the Minority Party shall cooperate and file any Amended Tax Return requested by the Majority Party consistent with this Section 3.09(b).

(c) The Minority Party may file an Amended Tax Return only with the prior written consent of the Majority Party (such consent not to be unreasonably withheld, conditioned or delayed); provided that the Minority Party must first (i) provide notice of its intent to file such Amended Tax Return to the Majority Party at least ten (10) Business Days prior to the filing of any such Amended Tax Return, (ii) reasonably cooperate and consult with the Majority Party to consider the Tax implications of filing such Amended Tax Return and (iii) indemnify the Majority Party to the extent the filing of any such Amended Tax Return could reasonably be expected to materially increase the Majority Party’s (A) indemnification obligations under this Agreement or (B) liability for Taxes in any Post-Distribution Period.

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## Section 4. Tax Payments.

### *Section 4.01 Payment of Taxes.*

(a) *Computation and Payment of Tax Due With Respect to Joint Returns.* In the case of any Joint Return, at least fifteen (15) Business Days prior to any Payment Date for any such Tax Return, the Preparing Company shall compute the amount of Taxes required to be paid to the applicable Tax Authority (taking into account the requirements of Section 3.04 relating to consistent accounting practices, as applicable) with respect to such Tax Return and, to the extent the other Company is liable for any amount of Taxes with respect to such Tax Return, as determined in accordance with the provisions of Section 2, the Preparing Company shall provide such other Company a written statement setting forth the Taxes for which such other Company is liable and the basis for its computation in reasonable detail. Absent manifest error in such computation, as soon as reasonably practicable upon receipt of such written statement (but in any event no later than the Payment Date), the Company that is not the Required Company shall pay to the Required Company the amount of such Taxes for which such first Company is liable pursuant to the preceding sentence. The Required Company shall pay to the applicable Tax Authority on or before such Payment Date the amount of Taxes required to be paid with respect to any Joint Return (and provide notice and proof of payment to the other Company).

(b) *Computation and Payment of Tax Due With Respect to Separate Returns.* In the case of any Separate Return, at least fifteen (15) Business Days prior to any Payment Date for any such Tax Return, the Preparing Company shall compute the amount of Taxes required to be paid to the applicable Tax Authority (taking into account the requirements of Section 3.04 relating to consistent accounting practices, as applicable) with respect to such Tax Return and, to the extent the other Company is liable for any amount of Taxes with respect to such Tax Return, as determined in accordance with the provisions of Section 2, the Preparing Company shall provide such other Company a written statement setting forth the Taxes for which such other Company is liable and the basis for its computation in reasonable detail. Absent manifest error in such computation, as soon as reasonably practicable upon receipt of such written statement (but in any event no later than the Payment Date) the Company that is not the Required Company shall pay to the Required Company the amount of such Taxes for which such first Company is liable pursuant to the preceding sentence. The Required Company shall pay to the applicable Tax Authority on or before such Payment Date the amount of Taxes required to be paid with respect to any Separate Return (and provide notice and proof of payment to the other Company).

(c) *Adjustments.* In the case of any adjustment or payment pursuant to either, (i) a Final Determination or (ii) the Controlling Party determining in good faith to pay amounts asserted by a Tax Authority in connection with a Tax Contest while continuing to appeal or otherwise contest such Tax Contest, in either case, with respect to any Tax Return described in Section 4.01(a) or Section 4.01(b), the Required Company shall pay to the applicable Tax Authority when due any additional Tax due with respect to such Tax Return required to be paid as a result of such adjustment pursuant to a Final Determination or good faith determination to pay. In a manner consistent with the principles set forth in Section 4.01(a) and Section 4.01(b).

the Preparing Company shall compute the amount attributable to the other Company in accordance with Section 2 and provide such other Company a written statement setting forth the Taxes for which such other Company is liable and the basis for its computation in reasonable detail, and the Company that is not the Required Company shall pay to the Required Company the amount allocable to such first Company as soon as reasonably practicable upon receipt of such written statement (but in any event no later than the Payment Date).

*Section 4.02 Indemnification Payments.*

(a) If a party is required to make a payment to the other party pursuant to this Agreement (other than pursuant to Section 4.01(a), Section 4.01(b), Section 4.03, Section 4.04, Section 6.03 or Section 6.04(d)), the party required to make such payment under this Agreement shall pay the amount for which it is responsible (a “**TMA Liability**”) to the other party at the time or times provided in the next two sentences. No later than sixty (60) days following the close of the applicable calendar year, any TMA Liabilities which arose during the previous calendar year and are owed and not yet paid, to ElectronicsCo by RemainCo shall be netted with any such TMA Liabilities owed and not yet paid to RemainCo by ElectronicsCo, and if either party has a net TMA Liability remaining after such netting (a “**Net TMA Liability**”), the party owing such Net TMA Liability shall pay such Net TMA Liability to the other party. Notwithstanding the foregoing, if at any point during a calendar year, the Net TMA Liability, calculated at such time, owed to any party exceeds one million dollars (\$1,000,000.00), the party owing such Net TMA Liability shall pay such amount to the other party within twenty (20) Business Days of receipt of a written demand for payment from the other party. For the avoidance of doubt, the provisions of this Section 4.02(a) shall not apply to the Parties’ obligations pursuant to Section 4.01(a), Section 4.01(b), Section 4.03, Section 4.04, Section 6.03 and Section 6.04(d), and no amount owing pursuant to such provisions shall be included in any TMA Liability or Net TMA Liability.

(b) All payments between the two Companies under this Agreement shall be made by the Company having the obligation to make such payment (the “**Indemnitor**”) directly to the Company entitled to receive such payment (the “**Indemnitee**”); provided, however, that if the Indemnitor and the Indemnitee mutually agree with respect to any such payment, any member of the Indemnitor’s Group, on the one hand, may make such payment to any member of the Indemnitee’s Group, on the other hand, and vice versa. All payments between the two Companies shall be treated in the manner described in Section 12, unless otherwise agreed by the parties.

*Section 4.03 Rights and Obligations Pursuant to the Specified Historic Transaction Agreements*

(a) Notwithstanding anything to the contrary in this Agreement, (i) RemainCo shall be entitled to receive or retain, as applicable, one hundred percent (100%) of any payments received by any member of the RemainCo Group or any member of the ElectronicsCo Group and (ii) RemainCo shall be responsible for, and shall pay, one hundred percent (100%) of any payment obligations, in each case, after the date hereof in connection with the matters set forth on Exhibit D.

(b) Subject to Section 4.03(a) and notwithstanding anything to the contrary in this Agreement, (i) RemainCo shall be entitled to receive or retain, as applicable, the RemainCo Fixed Ratio of any payments received by any member of the RemainCo Group or any member of the ElectronicsCo Group, after the date hereof pursuant to the Specified Historic Transaction Agreements and (ii) ElectronicsCo shall be entitled to receive or retain, as applicable, the ElectronicsCo Fixed Ratio of any payments received by any member of the RemainCo Group or any member of the ElectronicsCo Group after the date hereof pursuant to the Specified Historic Transaction Agreements.

(c) Subject to Section 4.03(a) and Section 4.03(d) and otherwise notwithstanding anything to the contrary in this Agreement, with respect to payment obligations of any member of the RemainCo Group or any member of the ElectronicsCo Group after the date hereof pursuant to the Specified Historic Transaction Agreements which arise from Taxes not otherwise allocated pursuant to this Agreement, or from the receipt of payments prior to the date hereof not allocated pursuant to Section 4.03(b), (i) RemainCo shall be responsible for, and shall pay, the RemainCo Fixed Ratio of any such payment, and (ii) ElectronicsCo shall be responsible for, and shall pay, the ElectronicsCo Fixed Ratio of any such payment.

(d) Subject to Section 4.03(a), with respect to payment obligations of any member of the RemainCo Group or any member of the ElectronicsCo Group after the date hereof pursuant to the Specified Historic Transaction Agreements which arise from Taxes allocated pursuant to this Agreement (or which arise from payments after the date hereof the receipt of which is allocated pursuant to Section 4.03(b)), (i) RemainCo shall be responsible for, and shall pay, such payment obligations to the extent such Taxes were allocated to RemainCo or the underlying payment was received or retained, as applicable, by any member of the RemainCo Group, and (ii) ElectronicsCo shall be responsible for, and shall pay, such payment obligations to the extent such Taxes were allocated to ElectronicsCo, or the underlying payment was received or retained, as applicable, by any member of the ElectronicsCo Group.

(e) To the extent either Company or any member of its Group receives a payment to which the other Company is entitled pursuant to this Section 4.03, the receiving Company or member of its Group, as the case may be, shall, within twenty (20) Business Days after the receipt of such payment, pay over the amount so received to the other Company. To the extent either Company or any member of its Group bears a payment obligation which is the responsibility of the other Company pursuant to this Section 4.03, the Company responsible for such obligation shall, within twenty (20) Business Days upon receipt of notice thereof, promptly reimburse the other Company. Each party shall consult in good faith with the other party regarding the disposition of any claim pursuant to the Specified Historic Transaction Agreements that could result in a payment by the other party under this Section 4.03. In no event will either party have any liability, nor be relieved of any liability, as a result of any failure to comply with the preceding sentence.

(f) The parties intend to share the net economic benefit of any insurance proceeds received by RemainCo, ElectronicsCo or members of their respective Groups with respect to any obligation to make payments pursuant to the Specified Historic Transaction Agreements, in the same proportion that the parties have agreed, pursuant to Section 4.03(a)-(d), to share the obligations pursuant to such Specified Historic Transaction Agreements. In furtherance of the

foregoing, in the event that one Company or any member of its Group (the “**Insurance Recipient Party**”) receives cash proceeds under any insurance policy (including any “representations and warranties insurance” policies or specific policies covering identified insured risks) with respect to an obligation to make a payment pursuant to the Specified Historic Transaction Agreements, the net amount of such cash proceeds, after reduction for any Taxes or other expenses incurred by the Insurance Recipient Party on the receipt of such insurance proceeds, shall be allocated between RemainCo and ElectronicsCo in the same proportion that the payment pursuant to the Specified Historic Transaction Agreements giving rise to the receipt of such insurance proceeds is allocated pursuant to this Section 4.03, and the portion so allocated to the party that is not the Insurance Recipient Party (the “**Non-Insurance Recipient Party**”) shall reduce the payment obligations of the Non-Insurance Recipient Party with respect to the payment giving rise to the receipt of insurance proceeds. If the Non-Insurance Recipient makes a payment pursuant to this Section 4.03, and the Insurance Recipient Party subsequently receives cash proceeds under any insurance policy (including any “representations and warranties insurance” policies or specific policies covering identified insured risks) with respect to an obligation to make a payment pursuant to the Specified Historic Transaction Agreements, that were not taken into account under the preceding sentence in determining the amount the Non-Insurance Recipient was required to pay, the Insurance Recipient Party shall remit to the Non-Insurance Recipient Party an amount sufficient so that the net amount paid by the Non-Insurance Recipient Party (the initial payment, reduced by any such remittance by the Insurance Recipient Party) equals the amount that would have been paid by the Non-Insurance Recipient Party pursuant to the preceding sentence had the cash proceeds under such insurance policy been received prior to the payment by the Non-Insurance Recipient Party hereunder. In the event any cash proceeds received under any insurance policy described in the preceding two sentences are subsequently denied, recovered, or otherwise recouped from the Insurance Recipient Party, the Non-Insurance Recipient Party shall pay to the Insurance Recipient Party, an amount sufficient to ensure that the Insurance Recipient Party receives, in the aggregate with any previous payments, the amount the Insurance Recipient Party would have received from the Non-Insurance Recipient Party had such denied, recovered or otherwise recouped insurance proceeds never been received by the Insurance Recipient Party.

*Section 4.04 Rights and Obligations Pursuant to the Other Historic Disposition Transaction Agreements*

(a) Notwithstanding anything to the contrary in this Agreement, (i) RemainCo shall be entitled to receive or retain, as applicable, the first \$1,000,000, of any payments made to any member of the RemainCo Group or any member of the ElectronicsCo Group after the date hereof pursuant to all Other Historic Disposition Transaction Agreements in a given calendar year, and (ii) for amounts in excess of \$1,000,000 received by any member of the RemainCo Group or any member of the ElectronicsCo Group after the date hereof and pursuant to all Other Historic Disposition Transaction Agreements in such calendar year, (A) RemainCo shall be entitled to receive or retain, as applicable, the RemainCo Fixed Ratio of any such amounts received by such member of the RemainCo Group or such member of the ElectronicsCo Group after the date hereof pursuant to any Other Historic Disposition Transaction Agreement and (B) ElectronicsCo shall be entitled to receive or retain, as applicable, the ElectronicsCo Fixed Ratio of any such amounts received by such member of the RemainCo Group or such member of the ElectronicsCo Group after the date hereof pursuant to any Other Historic Disposition Transaction

Agreements. For the avoidance of doubt, the \$1,000,000 threshold described in clause (i) of the immediately preceding sentence shall be determined on a calendar year-by-calendar year basis, and aggregating all payments pursuant to all Other Historic Disposition Transaction Agreements in such year. To the extent the receipt of a payment by any member of the RemainCo Group or any member of the ElectronicsCo Group pursuant to any Other Historic Disposition Transaction Agreement after the date hereof (the “**Underlying Inbound Payment**”) subsequently gives rise to a payment obligation of any member of the RemainCo Group or any member of the ElectronicsCo Group pursuant to such Other Historic Disposition Transaction Agreements, (i) RemainCo shall be responsible for, and shall pay, such payment obligations to the extent RemainCo was entitled to receive or retain, as the case may be, such underlying payment hereunder, and (ii) ElectronicsCo shall be responsible for, and shall pay, such payment obligations to the extent ElectronicsCo was entitled to receive the underlying payment hereunder. For purposes of the previous sentence, payment obligations under the Other Historic Disposition Transaction Agreements shall be treated as arising from payments to any member of the RemainCo Group or any member of the ElectronicsCo Group under the Other Historic Disposition Transaction Agreements in excess of \$1,000,000, to the extent of such excess, if any, in the relevant calendar year in which the Underlying Inbound Payment was received.

(b) RemainCo shall be entitled to receive payments from ElectronicsCo pursuant to Section 4.04(c) and Section 4.04(d) only to the extent that the total payment obligations of the RemainCo Group or the ElectronicsCo Group pursuant to all Other Historic Disposition Transaction Agreements for a given calendar year (the “**Total Outbound Payment**”) exceed \$1,000,000 (such excess the “**Threshold Excess Outbound Payment**”). For the avoidance of doubt, the \$1,000,000 threshold described in the immediately preceding sentence shall be determined on a calendar year-by-calendar year basis, and aggregating all payments pursuant to all Other Historic Disposition Transaction Agreements in such year. In such case, ElectronicsCo shall be responsible for the sum of (i) an amount equal to the product of (A) the Threshold Excess Outbound Payment, multiplied by (B) the ratio of (I) the total amount ElectronicsCo would otherwise be responsible for pursuant to Section 4.04(c) in a given calendar year, in the absence of this Section 4.04(b), divided by (II) Total Outbound Payment in such given calendar year, and (ii) an amount equal to the product of (A) the Threshold Excess Outbound Payment, multiplied by (B) the ratio of (I) the total amount ElectronicsCo would otherwise be responsible for pursuant to Section 4.04(d) in a given calendar year, in the absence of this Section 4.04(b), divided by (II) the Total Outbound Payment in such given calendar year.

(c) Subject to Section 4.04(b) and Section 4.04(d) and otherwise notwithstanding anything to the contrary in this Agreement, with respect to payment obligations of any member of the RemainCo Group or any member of the ElectronicsCo Group after the date hereof pursuant to any Other Historic Disposition Transaction Agreement which arise from Taxes not otherwise allocated pursuant to this Agreement, or from the receipt of payments prior to the date hereof not allocated pursuant to Section 4.04(a), (i) RemainCo shall be responsible for, and shall pay, the RemainCo Fixed Ratio of any such payment, and (ii) ElectronicsCo shall be responsible for, and shall pay, the ElectronicsCo Fixed Ratio of any such payment.



(d) Subject to Section 4.04(b), with respect to payment obligations of any member of the RemainCo Group or any member of the ElectronicsCo Group after the date hereof pursuant to any Other Historic Disposition Transaction Agreements which arise from Taxes allocated pursuant to this Agreement, (i) RemainCo shall be responsible for, and shall pay, such payment obligations to the extent such Taxes were allocated to RemainCo, and (ii) ElectronicsCo shall be responsible for, and shall pay, such payment obligations to the extent such Taxes were allocated to ElectronicsCo.

(e) To the extent either Company or any member of its Group receives a payment to which the other Company is entitled pursuant to this Section 4.04, the receiving Company or member of its Group shall, within twenty (20) Business Days after the receipt of such payment, pay over the amount so received to the other Company. To the extent either Company or any member of its Group bears a payment obligation which is the responsibility of the other Company pursuant to this Section 4.04, the Company responsible for such obligation shall, within twenty (20) Business Days upon receipt of notice thereof, promptly reimburse the other Company. Each party shall consult in good faith with the other party regarding the disposition of any claim pursuant to the Other Historic Disposition Transaction Agreements that could result in a payment under this Section 4.04. In no event will either party have any liability, nor be relieved of any liability, as a result of any failure to comply with the preceding sentence.

(f) The parties intend to share the net economic benefit of any insurance proceeds received by RemainCo, ElectronicsCo or members of their respective Groups with respect to any obligation to make payments pursuant to the Other Historic Disposition Transaction Agreements, in the same proportion (including taking account of the limitations pursuant to Section 4.04(b)) that the parties have agreed, pursuant to Section 4.04(a)-(d), to share the obligations pursuant to such Other Historic Disposition Transaction Agreements. In furtherance of the foregoing, in the event that the Insurance Recipient Party receives cash proceeds under any insurance policy (including any “representations and warranties insurance” policies or specific policies covering identified insured risks) with respect to an obligation to make a payment pursuant to the Other Historic Disposition Transaction Agreements, the net amount of such cash proceeds, after reduction for any Taxes or other expenses incurred by the Insurance Recipient Party on the receipt of such insurance proceeds, shall be allocated between RemainCo and ElectronicsCo in the same proportion that the payment pursuant to the Other Historic Disposition Transaction Agreements giving rise to the receipt of such insurance proceeds is allocated pursuant to this Section 4.04, and the portion so allocated to the Non-Insurance Recipient Party shall reduce the payment obligations of the Non-Insurance Recipient Party with respect to the payment giving rise to the receipt of insurance proceeds. If the Non-Insurance Recipient makes a payment pursuant to this Section 4.04, and the Insurance Recipient Party subsequently receives cash proceeds under any insurance policy (including any “representations and warranties insurance” policies or specific policies covering identified insured risks) with respect to an obligation to make a payment pursuant to the Other Historic Disposition Transaction Agreements, that were not taken into account under the preceding sentence in determining the amount the Non-Insurance Recipient was required to pay, the Insurance Recipient Party shall remit to the Non-Insurance Recipient Party an amount sufficient so that the net amount paid by the Non-Insurance Recipient Party (the initial payment, reduced by any such remittance by the Insurance Recipient Party) equals the amount that would have been paid by the Non-Insurance Recipient Party pursuant to the preceding sentence had the cash proceeds under such insurance policy been received prior to the payment by the Non-Insurance Recipient Party hereunder. In the event any cash proceeds received under any insurance policy described in the preceding two sentences are subsequently denied, recovered, or otherwise recouped from the Insurance Recipient Party, the

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Non-Insurance Recipient Party shall pay to the Insurance Recipient Party, an amount sufficient to ensure that the Insurance Recipient Party receives, in the aggregate with any previous payments, the amount the Insurance Recipient Party would have received from the Non-Insurance Recipient Party had such denied, recovered or otherwise recouped insurance proceeds never been received by the Insurance Recipient Party.

## **Section 5. Tax Refunds and Transfer Pricing Adjustments**

*Section 5.01 Tax Refunds.* RemainCo shall be entitled to any refund (including any application of such refund to reduce liability for Taxes by means of a credit, offset or otherwise) of Taxes (and any interest thereon received from the applicable Tax Authority) for which RemainCo is liable hereunder and ElectronicsCo shall be entitled (subject to the limitations provided in Section 3.07) to any refund (including any application of such refund to reduce liability for Taxes by means of a credit, offset or otherwise) of Taxes (and any interest thereon received from the applicable Tax Authority) for which ElectronicsCo is liable hereunder. A Company receiving a refund (including by application of a refund to reduce liability for Taxes by means of a credit, offset or otherwise) to which the other Company is entitled hereunder shall pay over such refund to such other Company in accordance with the provisions of Section 4.02(a).

### *Section 5.02 Transfer Pricing.*

(a) If pursuant to a Final Determination any Transfer Pricing Adjustment is made which results in (i) a Tax for which RemainCo is liable hereunder and (ii) a Tax Benefit allowable to a member of the ElectronicsCo Group, ElectronicsCo shall make payment to RemainCo, in accordance with Section 4.02(a), if such Tax Benefit results in cash Tax savings or a refund (including any application of such refund to reduce liability for Taxes by means of a credit, offset or otherwise), calculated on a “with and without” basis, in an amount equal to the portion of such cash Tax savings or such refund which arises from or is attributable to the portion of such Tax for which RemainCo is liable pursuant to this Agreement.

(b) If pursuant to a Final Determination any Transfer Pricing Adjustment is made which results in (i) a Tax for which ElectronicsCo is liable hereunder and (ii) a Tax Benefit allowable to a member of the RemainCo Group, RemainCo shall make payment to ElectronicsCo, in accordance with Section 4.02(a), if such Tax Benefit results in cash Tax savings or a refund (including any application of such refund to reduce liability for Taxes by means of a credit, offset or otherwise), calculated on a “with and without” basis, in an amount equal to the portion of such cash Tax savings or such refund which arises from or is attributable to the portion of such Tax for which ElectronicsCo is liable pursuant to this Agreement.

## **Section 6. Tax-Free Status.**

### *Section 6.01 Restrictions on ElectronicsCo.*

(a) ElectronicsCo agrees that it will not take or fail to take, or permit any of its Affiliates, as the case may be, to take or fail to take, any action where such action or failure to act would be inconsistent with or cause to be untrue any statement, information, covenant or representation in any Representation Letters or Tax Opinions/Rulings. ElectronicsCo agrees that

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it will not take or fail to take, or permit any of its Affiliates, as the case may be, to take or fail to take, (A) any action which adversely affects or could reasonably be expected to adversely affect the Tax-Free Status of the ElectronicsCo Spin Contribution and the Distribution or (B) any action in violation of the restrictions set forth on Exhibit B.

(b) ElectronicsCo agrees that, from the date hereof until the first Business Day after the two-year anniversary of the Distribution Date, it will (i) maintain its status as a company engaged in the Active Trade or Business for purposes of Section 355(b)(2) of the Code, (ii) not engage in any transaction that would result in it ceasing to be a company engaged in the Active Trade or Business for purposes of Section 355(b)(2) of the Code, (iii) cause each of its Affiliates whose Active Trade or Business is relied upon in the Tax Opinions/Rulings for purposes of qualifying a transaction as tax-free pursuant to Section 355 of the Code or other Tax Law to maintain its status as a company engaged in such Active Trade or Business for purposes of Section 355(b)(2) of the Code and any such other applicable Tax Law, (iv) not engage in any transaction or permit any of its Affiliates to engage in any transaction that would result in any of its Affiliates described in clause (iii) hereof ceasing to be a company engaged in the relevant Active Trade or Business for purposes of Section 355(b)(2) or such other applicable Tax Law, taking into account Section 355(b)(3) of the Code for purposes of clauses (i) through (iv) hereof, and (v) not dispose of or permit any of its Affiliates to dispose of, directly or indirectly, any interest in any of its Affiliates described in clause (iii) hereof or permit any such Affiliate to make or revoke any election under Treasury Regulation Section 301.7701-3.

(c) ElectronicsCo agrees that, from the date hereof until the first Business Day after the two-year anniversary of the Distribution Date, it will not and will not permit any of its Affiliates described in clause (iii) of Section 6.01(b) to (i) enter into any Proposed Acquisition Transaction or, to the extent ElectronicsCo has the right to prohibit any Proposed Acquisition Transaction, permit any Proposed Acquisition Transaction to occur (whether by (A) redeeming rights under a shareholder rights plan, (B) finding a tender offer to be a “permitted offer” under any such plan or otherwise causing any such plan to be inapplicable or neutralized with respect to any Proposed Acquisition Transaction, (C) approving any Proposed Acquisition Transaction, whether for purposes of Section 203 of the DGCL or any similar corporate statute, any “fair price” or other provision of ElectronicsCo’s charter or bylaws, (D) amending its certificate of incorporation to declassify its Board of Directors or approving any such amendment, or otherwise), (ii) merge or consolidate with any other Person or liquidate or partially liquidate, (iii) in a single transaction or series of transactions, sell or transfer (other than sales or transfers of inventory in the ordinary course of business) all or substantially all of the assets that were transferred to ElectronicsCo pursuant to the ElectronicsCo Spin Contribution or sell or transfer twenty-five percent (25%) or more of the gross assets of any Active Trade or Business or twenty-five percent (25%) or more of the consolidated gross assets of ElectronicsCo and its Affiliates (such percentages to be measured based on fair market value as of the initial Distribution Date), (iv) redeem or otherwise repurchase (directly or through an Affiliate of ElectronicsCo) any of ElectronicsCo stock, or rights to acquire stock, except to the extent such repurchases satisfy Section 4.05(1)(b) of Revenue Procedure 96-30 (as in effect prior to the amendment of such Revenue Procedure by Revenue Procedure 2003-48), (v) amend its certificate of incorporation (or other organizational documents), or take any other action, whether through a stockholder vote or otherwise, affecting the voting rights of ElectronicsCo Capital Stock (including, without limitation, through the conversion of one class of ElectronicsCo Capital Stock into another class

of ElectronicsCo Capital Stock) or (vi) take any other action or actions (including any action or transaction that would be reasonably likely to be inconsistent with any representation made in the Representation Letters or the Tax Opinions/Rulings) which in the aggregate (and taking into account any other transactions described in this Section 6.01(c)) would be reasonably likely to have the effect of causing or permitting one or more Persons (whether or not acting in concert) to acquire directly or indirectly stock representing a Fifty-Percent or Greater Interest in ElectronicsCo or otherwise jeopardize the Tax-Free Status, *unless* prior to taking any such action set forth in the foregoing clauses (i) through (vi), (1) ElectronicsCo shall have requested that RemainCo obtain a Ruling in accordance with Section 6.03(b) and (d), of this Agreement to the effect that such transaction will not affect the Tax-Free Status and RemainCo shall have received such a Ruling in form and substance satisfactory to RemainCo in its sole and absolute discretion, or (2) ElectronicsCo shall provide RemainCo with an Unqualified Tax Opinion in form and substance satisfactory to RemainCo in its sole and absolute discretion (and in determining whether an opinion is satisfactory, RemainCo may consider, among other factors, the appropriateness of any underlying assumptions and management's representations if used as a basis for the opinion and RemainCo may determine that no opinion would be acceptable to RemainCo) or (3) RemainCo shall have waived the requirement to obtain such Ruling or Unqualified Tax Opinion. RemainCo shall not be required to take any action related to obtaining a Ruling unless and until ElectronicsCo has provided to RemainCo an opinion reasonably acceptable to RemainCo from a nationally recognized Tax Advisor to the effect that the outcome of the ruling process should be favorable.

(d) *Certain Issuances of ElectronicsCo Capital Stock.* If ElectronicsCo proposes to enter into any Section 6.01(d) Acquisition Transaction or, to the extent ElectronicsCo has the right to prohibit any Section 6.01(d) Acquisition Transaction, proposes to permit any Section 6.01(d) Acquisition Transaction to occur, in each case, during the period from the date hereof until the first Business Day after the two-year anniversary of the Distribution Date, ElectronicsCo shall provide RemainCo, no later than ten (10) Business Days following the signing of any written agreement with respect to such Section 6.01(d) Acquisition Transaction, with a written description of such transaction (including the type and amount of ElectronicsCo Capital Stock to be issued in such transaction) and a certificate of the Board of Directors of ElectronicsCo to the effect that the Section 6.01(d) Acquisition Transaction is not a Proposed Acquisition Transaction or any other transaction to which the requirements of Section 6.01(c) apply (a "**Board Certificate**").

(e) *Gain Recognition Agreements.* ElectronicsCo shall not (i) take any action (including, but not limited to, the sale or disposition of any stock, securities, or other assets), (ii) permit any member of its Group to take any such action, (iii) fail to take any action, or (iv) permit any member of its Group to fail to take any action, in each case that would cause RemainCo or any member of the RemainCo Group to recognize gain under any Gain Recognition Agreement. In addition, ElectronicsCo shall file, and shall cause any member of its Group to file, any Gain Recognition Agreement reasonably requested by RemainCo which Gain Recognition Agreement is determined by RemainCo to be necessary so as to (i) allow for or preserve the tax-free or tax-deferred nature, in whole or part, of any Separation Transaction, or (ii) avoid RemainCo or any member of the RemainCo Group recognizing gain under any Gain Recognition Agreement.

*Section 6.02 Restrictions on RemainCo.* RemainCo agrees that it will not take or fail to take, or permit any RemainCo Affiliate, as the case may be, to take or fail to take, any action (i) where such action or failure to act would be inconsistent with or cause to be untrue any statement, information, covenant or representation in any Representation Letters or Tax Opinions/Rulings or (ii) which adversely affects or could reasonably be expected to adversely affect (A) the Tax-Free Status of the ElectronicsCo Spin Contribution and/or the Distribution, or (B) the qualification of any Separation Transaction under U.S. federal, state, local or non-U.S. Tax Law as tax free (including, but not limited to, those transactions described in any of the Tax Opinions/Rulings received with respect to such Separation Transaction) from so qualifying; provided, however, that this Section 6.02 shall not be construed as obligating RemainCo to consummate the Distribution nor shall it be construed as preventing RemainCo from terminating the Separation Agreement pursuant to Section 12.11 thereof. For the avoidance of doubt, ElectronicsCo's sole recourse for violations of this Section 6.02 shall be as set forth in Section 6.04(b).

*Section 6.03 Procedures Regarding Opinions and Rulings.*

(a) If ElectronicsCo notifies RemainCo that it desires to take one of the actions described in clauses (i) through (vi) of Section 6.01(c) (a “**Notified Action**”), RemainCo and ElectronicsCo shall reasonably cooperate to attempt to obtain the Ruling or Unqualified Tax Opinion referred to in Section 6.01(c), unless RemainCo shall have waived the requirement to obtain such Ruling or Unqualified Tax Opinion.

(b) *Rulings or Unqualified Tax Opinions Requested by ElectronicsCo.* RemainCo agrees that at the reasonable request of ElectronicsCo pursuant to Section 6.01(c), RemainCo shall cooperate with ElectronicsCo and use reasonable efforts to seek to obtain, as expeditiously as possible, an Unqualified Tax Opinion or, in RemainCo's sole discretion, a Ruling from the IRS, for the purpose of permitting ElectronicsCo to take the Notified Action. Further, in no event shall RemainCo be required to file any Ruling Request under this Section 6.03(b) unless ElectronicsCo represents that (A) it has read the Ruling Request, and (B) all information and representations, if any, relating to any member of the ElectronicsCo Group, contained in the Ruling Request documents are (subject to any qualifications therein) true, correct and complete. ElectronicsCo shall reimburse RemainCo for all reasonable third-party costs and expenses incurred by the RemainCo Group in filing a Ruling Request and/or obtaining a Ruling or Unqualified Tax Opinion requested by ElectronicsCo within ten (10) Business Days after receiving an invoice from RemainCo therefor.

(c) *Rulings or Unqualified Tax Opinions Requested by RemainCo.* RemainCo shall have the right to obtain a Ruling or an Unqualified Tax Opinion at any time in its sole and absolute discretion. If RemainCo determines to obtain a Ruling or an Unqualified Tax Opinion, ElectronicsCo shall (and shall cause each of its Affiliates to) cooperate with RemainCo and take any and all actions reasonably requested by RemainCo in connection with obtaining the Ruling or Unqualified Tax Opinion (including, without limitation, by making any representation or covenant or providing any materials or information requested by the IRS or Tax Advisor; provided that ElectronicsCo shall not be required to make (or cause any of its Affiliates to make) any representation or covenant that is inconsistent with historical facts or as to future matters or events over which it has no control). RemainCo shall reimburse ElectronicsCo for all reasonable third-party costs and expenses incurred by the ElectronicsCo Group in connection with such cooperation within ten (10) Business Days after receiving an invoice from ElectronicsCo therefor.

(d) ElectronicsCo hereby agrees that RemainCo shall have sole and exclusive control over the process of obtaining any Ruling, and that only RemainCo shall apply for a Ruling. In connection with obtaining a Ruling pursuant to Section 6.03(b), (i) RemainCo shall keep ElectronicsCo informed in a timely manner of all material actions taken or proposed to be taken by RemainCo in connection therewith; (ii) RemainCo shall (A) reasonably in advance of the submission of any Ruling Request documents provide ElectronicsCo with a draft copy thereof, (B) reasonably consider ElectronicsCo's comments on such draft copy, (C) provide ElectronicsCo with a final copy and (D) RemainCo shall provide ElectronicsCo with notice reasonably in advance of, and ElectronicsCo shall have the right to attend, at its own expense, any formally scheduled meetings with the IRS (subject to the approval of the IRS) that relate to such Ruling. Neither ElectronicsCo nor any Affiliate directly or indirectly controlled by ElectronicsCo shall seek any guidance from the IRS or any other Tax Authority (whether written, verbal or otherwise) at any time concerning the ElectronicsCo Spin Contribution or the Distribution (including the impact of any transaction on the ElectronicsCo Spin Contribution or the Distribution).

*Section 6.04 Liability for Tax-Related Losses.*

(a) Notwithstanding anything in this Agreement or the Separation Agreement to the contrary (and in each case regardless of whether a Ruling, Unqualified Tax Opinion or waiver described in clause (1), (2) or (3) of Section 6.01(c) may have been provided), subject to Section 6.04(d), ElectronicsCo shall be responsible for, and shall indemnify and hold harmless RemainCo and its Affiliates and each of their respective officers, directors and employees from and against, one hundred percent (100%) of any Tax-Related Losses that are attributable to or result from any one or more of the following: (i) the acquisition (other than pursuant to the ElectronicsCo Spin Contribution or the Distribution) of all or a portion of ElectronicsCo's stock and/or its or its Subsidiaries' assets by any means whatsoever by any Person, (ii) any negotiations, understandings, agreements or arrangements by ElectronicsCo with respect to transactions or events (including, without limitation, stock issuances, pursuant to the exercise of stock options or otherwise, option grants, capital contributions or acquisitions, or a series of such transactions or events) that cause the Distribution to be treated as part of a plan pursuant to which one or more Persons acquire directly or indirectly stock of ElectronicsCo representing a Fifty-Percent or Greater Interest therein, (iii) any action or failure to act by ElectronicsCo after the Distribution (including, without limitation, any amendment to ElectronicsCo's certificate of incorporation (or other organizational documents), whether through a stockholder vote or otherwise) affecting the voting rights of ElectronicsCo stock (including, without limitation, through the conversion of one class of ElectronicsCo Capital Stock into another class of ElectronicsCo Capital Stock), (iv) any act or failure to act by ElectronicsCo or any ElectronicsCo Affiliate described in Section 6.01 (regardless whether such act or failure to act may be covered by a Ruling, Unqualified Tax Opinion or waiver described in clause (1), (2) or (3) of Section 6.01(c) or a Board Certificate described in Section 6.01(d)) or (v) any breach by ElectronicsCo of its agreement and representation set forth in Section 6.01(a).

(b) Notwithstanding anything in this Agreement or the Separation Agreement to the contrary, subject to Section 6.04(c), RemainCo shall be responsible for, and shall indemnify and hold harmless ElectronicsCo and its Affiliates and each of their respective officers, directors and employees from and against, one hundred percent (100%) of any Tax-Related Losses that are attributable to, or result from any one or more of the following: (i) the acquisition (other than pursuant to the ElectronicsCo Spin Contribution or the Distribution) of all or a portion of RemainCo's stock and/or its assets by any means whatsoever by any Person, (ii) any negotiations, agreements or arrangements by RemainCo with respect to transactions or events (including, without limitation, stock issuances, pursuant to the exercise of stock options or otherwise, option grants, capital contributions or acquisitions, or a series of such transactions or events) that cause the Distribution to be treated as part of a plan pursuant to which one or more Persons acquire directly or indirectly stock of RemainCo representing a Fifty-Percent or Greater Interest therein, (iii) any act or failure to act by RemainCo or a member of the RemainCo Group described in Section 6.02 or any breach by RemainCo of its agreement and representation set forth in Section 6.02, limited, in each case, to Tax-Related Losses arising from Taxes of the RemainCo Group for which an ElectronicsCo Entity is found jointly, severally or secondarily liable pursuant to the provisions of Treasury Regulation Section 1.1502-6 (or similar provisions of state, local or non-U.S. Tax Law).

(c)

(i) To the extent that any Tax-Related Loss is subject to indemnity under more than one of Section 6.04(a) and (b), responsibility for such Tax-Related Loss shall be shared by RemainCo and ElectronicsCo according to relative fault.

(ii) Notwithstanding anything in Section 6.04(b), or Section 6.04(c)(i), or any other provision of this Agreement or the Separation Agreement to the contrary:

(A) with respect to (1) any Tax-Related Loss resulting from Section 355(e) of the Code (other than as a result of an acquisition of a Fifty-Percent or Greater Interest in RemainCo) and (2) any other Tax-Related Loss resulting (for the absence of doubt, in whole or in part) from an acquisition after the Distribution of any stock or assets of ElectronicsCo (or any of its Affiliates) by any means whatsoever by any Person or any action or failure to act by ElectronicsCo affecting the voting rights of ElectronicsCo stock, ElectronicsCo shall be responsible for, and shall indemnify and hold harmless RemainCo and its Affiliates and each of their respective officers, directors and employees from and against, one hundred percent (100%) of such Tax-Related Loss; and

(B) for purposes of calculating the amount and timing of any Tax-Related Loss for which ElectronicsCo is responsible under this Section 6.04, Tax-Related Losses shall be calculated by assuming that RemainCo, its Group and each member of its Group (1) pays Tax at the highest marginal corporate Tax rates in effect in each relevant taxable year and (2) have no Tax Assets in any relevant taxable year.

(iii) Notwithstanding anything in Section 6.04(a) or Section 6.04(c)(i) or any other provision of this Agreement or the Separation Agreement to the contrary, with respect to (1) any Tax-Related Loss resulting from Section 355(e) of the Code (other than as a result of an acquisition of a Fifty-Percent or Greater Interest in ElectronicsCo) and (2) any other Tax-Related Loss resulting (for the absence of doubt, in whole or in part) from an acquisition after the Distribution of any stock or assets of RemainCo (or any of its Affiliates) by any means whatsoever by any Person, RemainCo shall be responsible for, and shall indemnify and hold harmless ElectronicsCo and its Affiliates and each of their respective officers, directors and employees from and against, one hundred percent (100%) of such Tax-Related Loss.

(d) With respect to any Tax-Related Losses pursuant to this Section 6.04, the Indemnitor shall pay the Indemnitee for any such Tax-Related Losses: (i) in the case of Tax-Related Losses described in clause (i) of the definition of "Tax-Related Losses," no later than two (2) Business Days prior to the date the Preparing Company files, or causes to be filed, the applicable Tax Return for the year of the ElectronicsCo Spin Contribution or Distribution, as applicable (the "**Filing Date**") (provided that if such Tax-Related Losses arise pursuant to a Final Determination, then such Indemnitor shall pay the Indemnitee no later than ten (10) Business Days after the date of such Final Determination) and (ii) in the case of Tax-Related Losses described in clause (ii) or (iii) of the definition of "Tax-Related Losses," no later than ten (10) Business Days after the date the Indemnitee pays such Tax-Related Losses.

## **Section 7. Assistance and Cooperation.**

### *Section 7.01 Assistance and Cooperation.*

(a) The Companies shall cooperate in good faith (and cause their respective Affiliates to cooperate) with each other and with each other's agents, including accounting firms and legal counsel, in connection with Tax matters relating to the Companies and their Affiliates including (i) preparing and filing of Tax Returns, (ii) determining the liability for, and amount of, any Taxes due (including estimated Taxes) or the right to, and amount of, any refund of Taxes, (iii) examinations of Tax Returns, and (iv) any administrative or judicial proceeding in respect of Taxes assessed or proposed to be assessed. Such cooperation shall include making all information and documents in their possession relating to the other Company and its Affiliates available to such other Company as provided in Section 8, and providing such assistance as is commercially reasonable in connection therewith. Each of the Companies shall also make available to the other Company, as reasonably requested and available, personnel (including officers, directors, employees and agents of the Companies or their respective Affiliates) responsible for preparing, maintaining, and interpreting information and documents relevant to Taxes, and personnel reasonably required as witnesses or for purposes of providing information or documents in connection with any administrative or judicial proceedings relating to Taxes. In the event that a member of the RemainCo Group, on the one hand, and a member of the ElectronicsCo Group, on the other hand, suffers a Tax detriment as a result of a Transfer Pricing



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Adjustment, the Companies shall cooperate pursuant to this Section 7 to seek any competent authority relief that may be available with respect to such Transfer Pricing Adjustment. ElectronicsCo shall cooperate with RemainCo and take any and all actions reasonably requested by RemainCo in connection with obtaining the Tax Opinions/Rulings (including, without limitation, by making any new representation or covenant, confirming any previously made representation or covenant or providing any materials or information requested by any Tax Advisor or Tax Authority; provided that, ElectronicsCo shall not be required to make or confirm any representation or covenant that is inconsistent with historical facts or as to future matters or events over which it has no control).

(b) Any information or documents provided under this Section 7 shall be kept confidential by the Company receiving such information or documents, except as may otherwise be necessary in connection with the filing of Tax Returns or in connection with any administrative or judicial proceedings relating to Taxes. Notwithstanding any other provision of this Agreement or any other agreement, (i) neither RemainCo nor any of its Affiliates shall be required to provide ElectronicsCo, its Affiliates or any other Person access to or copies of any information, documents or procedures (including the proceedings of any Tax Contest) other than information, documents or procedures that relate to ElectronicsCo, its business, assets or Affiliates and (ii) in no event shall RemainCo or any of its Affiliates be required to provide ElectronicsCo, its Affiliates or any other Person access to or copies of any information or documents if such action could reasonably be expected to result in the waiver of any Privilege. In addition, in the event that RemainCo determines that the provision of any information or documents to ElectronicsCo or its Affiliates could be commercially detrimental, violate any Law or agreement, or waive any Privilege, the parties shall use reasonable best efforts to permit compliance with its obligations under this Section 7 in a manner that avoids any such harm or consequence.

*Section 7.02 Income Tax Return Information.* The Companies acknowledge that time is of the essence in relation to any request for information, assistance or cooperation made by the Companies pursuant to Section 7.01 or this Section 7.02. The Companies acknowledge that failure to conform to the reasonable deadlines set by the Companies could cause irreparable harm. Each Company shall provide to the other Company information and documents relating to its respective Group required by such other Company to prepare Tax Returns, including, but not limited to, any pro forma Tax Returns required by the Preparing Company for purposes of preparing such Tax Returns. Any information or documents the Preparing Company requires to prepare such Tax Returns shall be provided in such form as the Preparing Company reasonably requests and at or prior to the time reasonably specified by the Preparing Company so as to enable the Preparing Company to file such Tax Returns on a timely basis.

*Section 7.03 Reliance by RemainCo.* If any member of the ElectronicsCo Group supplies information to a member of the RemainCo Group in connection with a Tax liability and an officer of a member of the RemainCo Group signs a statement or other document under penalties of perjury in reliance upon the accuracy of such information, then upon the written request of such member of the RemainCo Group identifying the information being so relied upon, the chief financial officer of ElectronicsCo (or any officer of ElectronicsCo as designated by the chief financial officer of ElectronicsCo) shall certify in writing that to his or her knowledge (based upon consultation with appropriate employees) the information so supplied is accurate and complete.

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*Section 7.04 Reliance by ElectronicsCo.* If any member of the RemainCo Group supplies information to a member of the ElectronicsCo Group in connection with a Tax liability and an officer of a member of the ElectronicsCo Group signs a statement or other document under penalties of perjury in reliance upon the accuracy of such information, then upon the written request of such member of the ElectronicsCo Group, identifying the information being so relied upon, the chief financial officer of RemainCo (or any officer of RemainCo as designated by the chief financial officer of RemainCo) shall certify in writing that to his or her knowledge (based upon consultation with appropriate employees) the information so supplied is accurate and complete.

#### **Section 8. Tax Records.**

*Section 8.01 Retention of Tax Records.* Each Company shall preserve and keep all Tax Records exclusively relating to the assets and activities of its respective Group for any Pre-Distribution Period, and RemainCo shall preserve and keep all other Tax Records relating to Taxes of the Groups for any Pre-Distribution Period, for so long as the contents thereof may become material in the administration of any matter under the Code or other applicable Tax Law, but in any event until the later of (i) the expiration of any applicable statutes of limitations, or (ii) ten (10) years after the Distribution Date (such later date, the “**Retention Date**”). After the Retention Date, each Company may dispose of such Tax Records upon sixty (60) Business Days’ prior written notice to the other Company and with the written consent of such other Company (such consent not to be unreasonably withheld, conditioned or delayed); provided that if the other Company fails to respond to such written notice within ninety (90) Business Days following the receipt of such written notice, the other Company shall be deemed to have provided its consent. If, prior to the Retention Date, (a) a Company reasonably determines that any Tax Records which it would otherwise be required to preserve and keep under this Section 8 are no longer material in the administration of any matter under the Code or other applicable Tax Law and the other Company consents in writing, then such first Company may dispose of such Tax Records upon sixty (60) Business Days’ prior notice to the other Company. Any notice of an intent to dispose given pursuant to this Section 8.01 shall include a list of the Tax Records to be disposed of describing in reasonable detail each such Tax Record being disposed. The notified Company shall have the opportunity, at its cost and expense, to copy or remove, within such sixty (60) Business Day period, all or any part of such Tax Records. If, at any time prior to the Retention Date, ElectronicsCo determines to decommission or otherwise discontinue any computer program or information technology system used to access or store any Tax Records, then ElectronicsCo may decommission or discontinue such program or system upon ninety (90) days’ prior notice to RemainCo and RemainCo shall have the opportunity, at its cost and expense, to copy, within such ninety (90) Business Day period, all or any part of the underlying data relating to the Tax Records accessed by or stored on such program or system.

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*Section 8.02 Access to Tax Records.* Each Company and its respective Affiliates shall make available to the other Company for inspection and copying during normal business hours upon reasonable notice all Tax Records (and, for the avoidance of doubt, any pertinent underlying data accessed or stored on any computer program or information technology system) in their possession and shall permit such other Company and its Affiliates, authorized agents and representatives and any representative of a Tax Authority or other Tax auditor direct access during normal business hours, upon reasonable notice and at the cost and expense of such other Company, to any computer program or information technology system used to access or store any Tax Records, in each case to the extent reasonably required by such other Company in connection with the preparation of Tax Returns or financial accounting statements, audits, litigation, or the resolution of items under this Agreement.

*Section 8.03 Preservation of Privilege.* No member of the ElectronicsCo Group shall provide access to, copies of, or otherwise disclose to any Person any documentation relating to Taxes existing prior to the Distribution Date to which Privilege may reasonably be asserted without the prior written consent of RemainCo (such consent not to be unreasonably withheld, conditioned or delayed).

## **Section 9. Tax Contests.**

*Section 9.01 Notice.* If any Company becomes aware of any written communication from a Tax Authority regarding any pending Tax audit, assessment or proceeding or other Tax Contest which, if successful, could reasonably be expected to result in an indemnification obligation under this Agreement, such Company shall promptly notify the other Company. Such notice shall attach copies of the pertinent portion of any written communication from a Tax Authority and contain factual information (to the extent known) describing any asserted Tax liability in reasonable detail and shall be accompanied by copies of any notice and other documents received from any Tax Authority in respect of any such matters. If an indemnified party has knowledge of an asserted Tax liability with respect to a matter for which it is to be indemnified hereunder and such party fails to give the indemnifying party prompt notice of such asserted Tax liability and the indemnifying party is entitled under this Agreement to contest the asserted Tax liability, then (i) if the indemnifying party is materially prejudiced as a result of the failure to give prompt notice, the indemnifying party shall have no obligation to indemnify the indemnified party for any Taxes arising out of such asserted Tax liability, and (ii) if the indemnifying party is not precluded from contesting the asserted Tax liability in any forum, but such failure to give prompt notice results in a material monetary detriment to the indemnifying party, then any amount which the indemnifying party is otherwise required to pay the indemnified party pursuant to this Agreement shall be reduced by the amount of such detriment.

### *Section 9.02 Control of Tax Contests.*

(a) *Joint Returns.* In the case of any Tax Contest with respect to any RemainCo Federal Consolidated Income Tax Return, and any other combined, consolidated, affiliated, unitary or other joint Tax Return which includes both members of the ElectronicsCo Group and members of the RemainCo Group, RemainCo shall have exclusive control over such Tax Contest, including exclusive authority with respect to any settlement of such Tax liability, subject to Section 9.02(f) below.

(b) *Pre-Distribution Period Tax Returns*. Other than a Tax Contest described in Section 9.02(a), in the case of any Tax Contest with respect to any Tax Return for any Tax Period ending on or prior to the Distribution Date, the Company having the greatest liability for Taxes subject to such Tax Contest shall have exclusive control over such Tax Contest, including exclusive authority with respect to any settlement of such Tax liability, subject to Section 9.02(e) and (f) below.

(c) *Straddle Period Tax Returns*. Other than a Tax Contest described in Section 9.02(a), in the case of any Tax Contest with respect to any Tax Return for any Straddle Period, the Company having the greatest liability for Taxes subject to such Tax Contest shall have exclusive control over such Tax Contest, including exclusive authority with respect to any settlement of such Tax liability, subject to Section 9.02(e) and (f) below.

(d) *Controlling Party*. For purposes of this Agreement, in the case of any Tax Contest described in Section 9.02(a), (b) or (c), “**Controlling Party**” means the Company entitled to control the Tax Contest under such Sections and “**Non-Controlling Party**” means the other Company.

(e) *Contest Rights*. Unless waived by the parties in writing, in connection with any potential adjustment in a Tax Contest as a result of which adjustment the Non-Controlling Party may reasonably be expected to (1) become liable to make any indemnification payment to the Controlling Party under this Agreement, (2) become obligated to make, or have a member of its Group make, a payment to the relevant Tax Authority or (3) become subject to a material increase in Taxes for any Post-Distribution Period: (i) the Controlling Party shall keep such Non-Controlling Party informed in a timely manner of all actions taken or proposed to be taken by the Controlling Party with respect to such potential adjustment in such Tax Contest, (ii) the Controlling Party shall timely provide such Non-Controlling Party copies of any written materials relating to such potential adjustment in such Tax Contest received from any Tax Authority, (iii) the Controlling Party shall timely provide such Non-Controlling Party with copies of any correspondence or filings submitted to any Tax Authority or judicial authority in connection with such potential adjustment in such Tax Contest, (iv) the Controlling Party shall consult with such Non-Controlling Party and offer such Non-Controlling Party a reasonable opportunity to comment before submitting any written materials prepared or furnished in connection with such potential adjustment in such Tax Contest, and the Controlling Party shall consider any reasonable comments in good faith, and (v) the Controlling Party shall defend such Tax Contest diligently and in good faith. The failure of the Controlling Party to take any action specified in the preceding sentence with respect to the Non-Controlling Party shall not relieve the Non-Controlling Party of any liability and/or obligation which it may have to the Controlling Party under this Agreement except to the extent that such Non-Controlling Party is actually harmed by such failure, and in no event shall such failure relieve such Non-Controlling Party from any other liability or obligation which it may have to the Controlling Party.

(f) *Tax Contest Participation*. Unless waived by the Companies in writing, (i) the Controlling Party shall provide the Non-Controlling Party with written notice reasonably in advance of, and such Non-Controlling Party shall have the right to attend (at its own cost and expense), any formally scheduled meetings with Tax Authorities or hearings or proceedings before any judicial authorities and (ii) the Companies shall cooperate in good faith and the

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Controlling Party shall consider any reasonable comments from the Non-Controlling Party in connection with any potential adjustment in a Tax Contest pursuant to which such Non-Controlling Party may reasonably be expected to (1) become liable to make any indemnification payment to the Controlling Party under this Agreement or (2) become subject to a material increase in Taxes for any Post-Distribution Period. The failure of the Controlling Party to provide such written notice specified in this Section 9.02(f) to the Non-Controlling Party shall not relieve such Non-Controlling Party of any liability and/or obligation which it may have to the Controlling Party under this Agreement except to the extent that such Non-Controlling Party is actually harmed by such failure, and in no event shall such failure relieve such Non-Controlling Party from any other liability or obligation which it may have to the Controlling Party.

(g) *Power of Attorney.* Each member of the Non-Controlling Party's Group shall execute and deliver to the Controlling Party (or such member of the Controlling Party's Group as the Controlling Party shall designate) any power of attorney or other similar document reasonably requested by the Controlling Party (or such designee) in connection with any Tax Contest described in this Section 9.

**Section 10. Effective Date.** This Agreement shall be effective as of the date hereof.

**Section 11. Survival of Obligations.** The representations, warranties, covenants and agreements set forth in this Agreement shall be unconditional and absolute and shall remain in effect without limitation as to time.

**Section 12. Tax Treatment of Payments.** The provisions of Section 12.23 of the Separation Agreement are hereby incorporated by reference *mutatis mutandis*.

**Section 13. Disagreements.**

*Section 13.01 Discussion.* The Companies will, and will cause their respective Group members to, use commercially reasonable efforts to resolve in an amicable manner all disagreements and misunderstandings in connection with their respective rights and obligations under this Agreement, including any amendments hereto. In furtherance thereof, in the event of any dispute or disagreement (a "**Dispute**") between any members of the Groups as to the interpretation of any provision of this Agreement or the performance of obligations hereunder, the Tax departments of the Companies shall negotiate in good faith to resolve such Dispute.

*Section 13.02 Escalation.* If good faith negotiations do not resolve a Dispute, then such Dispute (other than any Dispute involving computational matters or the interpretation of operative Tax Law, which shall be governed exclusively by Section 13.03) shall be resolved pursuant to the procedures set forth in Article X of the Separation Agreement.

*Section 13.03 Referral to Tax Advisor.* If good faith negotiations do not resolve a Dispute involving computational matters or the interpretation of operative Tax Law, such Dispute will be referred to a Tax Advisor acceptable to each of the Companies to act as an arbitrator in order to resolve the Dispute. In the event that the Companies are unable to agree upon a Tax Advisor within fifteen (15) Business Days following the completion of the escalation process or the event of a Dispute involving technical Tax matters, the Companies shall each

separately retain an independent, nationally recognized accounting firm (each, a “**Preliminary Tax Advisor**”), which Preliminary Tax Advisors shall jointly select a Tax Advisor on behalf of the Companies to act as an arbitrator in order to resolve the Dispute. The Tax Advisor may, in its discretion, obtain the services of any third-party appraiser, accounting firm or consultant that the Tax Advisor deems necessary to assist it in resolving such disagreement. The Tax Advisor shall furnish written notice to the Companies of its resolution of any such Dispute as soon as practical, but in any event no later than thirty (30) Business Days after its acceptance of the matter for resolution. Any such resolution by the Tax Advisor will be conclusive and binding on the Companies. Following receipt of the Tax Advisor’s written notice to the Companies of its resolution of the Dispute, the Companies shall each take or cause to be taken any action necessary to implement such resolution of the Tax Advisor. Each Company shall pay its own fees and expenses (including the fees and expenses of its representatives) incurred in connection with the referral of the matter to the Tax Advisor (and the Preliminary Tax Advisors, if any). All fees and expenses of the Tax Advisor (and the Preliminary Tax Advisors, if any) in connection with such referral shall be shared equally by the Companies.

*Section 13.04 Injunctive Relief.* Nothing in this Section 13 will prevent any Company from seeking injunctive relief if any delay resulting from the efforts to resolve a Dispute through the process set forth in this Section 13 could result in serious and irreparable injury to any Company. Notwithstanding anything to the contrary in this Agreement, RemainCo and ElectronicsCo are the only members of their respective Group entitled to commence a dispute resolution procedure under this Agreement, and each of RemainCo and ElectronicsCo will cause its respective Group members not to commence any dispute resolution procedure other than through such party as provided in this Section 13.

**Section 14. Expenses.** Except as otherwise provided in this Agreement, with respect to any third-party expenses incurred in connection with the preparation of Tax Returns, Tax Contests, and other matters related to Taxes under the provisions of this Agreement for which both Companies are reasonably expected to bear any liability for Taxes under this Agreement, (i) RemainCo shall be responsible for, and shall bear, the RemainCo Fixed Ratio of such expenses, and (ii) ElectronicsCo shall be responsible for, and shall bear, the ElectronicsCo Fixed Ratio of such expenses. Except for expenses described in the immediately preceding sentence, each Company and its Affiliates shall bear their own expenses.

#### **Section 15. General Provisions.**

*Section 15.01 Addresses and Notices.* Each party giving any notice required or permitted under this Agreement will give such notice in writing and use one of the following methods of delivery to the party to be notified, at the address set forth below or another address of which the sending party has been notified in accordance with this Section 15.01: (a) personal delivery; (b) facsimile or telecopy transmission with a reasonable method of confirming transmission; (c) commercial overnight courier with a reasonable method of confirming delivery; or (d) pre-paid, United States of America certified or registered mail, return receipt requested. Notice to a party is effective for purposes of this Agreement only if given as provided in this Section 15.01 and shall be deemed given on the date that the intended addressee actually receives the notice.

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If to RemainCo:

DuPont de Nemours, Inc.  
974 Centre Road, Building 730  
Wilmington, DE 19805  
Attention: Erik T. Hoover  
Email: [●]

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

Skadden, Arps, Slate, Meagher & Flom LLP  
One Manhattan West  
New York, NY 10001  
Attention: Brandon Van Dyke, Esq.  
Kyle J. Hatton, Esq.  
Jonathan M. Lee, Esq.  
Email: Brandon.VanDyke@skadden.com  
Kyle.Hatton@skadden.com  
Jonathan.Lee@skadden.com

If to ElectronicsCo:

Qnity Electronics, Inc.  
974 Centre Road, Building 735  
Wilmington, Delaware 19805  
Attention: Peter W. Hennessey  
Email: [●]

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

Skadden, Arps, Slate, Meagher & Flom LLP  
One Manhattan West  
New York, NY 10001  
Attention: Brandon Van Dyke, Esq.  
Kyle J. Hatton, Esq.  
Jonathan M. Lee, Esq.  
Email: Brandon.VanDyke@skadden.com  
Kyle.Hatton@skadden.com  
Jonathan.Lee@skadden.com

A party may change the address for receiving notices under this Agreement by providing written notice of the change of address to the other party.

*Section 15.02 Binding Effect.* This Agreement shall be binding upon and inure to the benefit of the parties hereto and their successors and assigns.

*Section 15.03 Waiver.* The parties may waive a provision of this Agreement only by a writing signed by the party intended to be bound by the waiver. A party is not prevented from enforcing any right, remedy or condition in the party's favor because of any failure or delay in exercising any right or remedy or in requiring satisfaction of any condition, except to the extent that the party specifically waives the same in writing. A written waiver given for one matter or occasion is effective only in that instance and only for the purpose stated therein. A waiver once given is not to be construed as a waiver for any other matter or occasion. Any enumeration of a party's rights and remedies in this Agreement is not intended to be exclusive, and a party's rights and remedies are intended to be cumulative to the extent permitted by Law and include any rights and remedies authorized in Law or in equity.

*Section 15.04 Severability.* If any provision of this Agreement is determined to be invalid, illegal or unenforceable, the remaining provisions of this Agreement remain in full force, if the essential terms and conditions of this Agreement for each party remain valid, binding and enforceable.

*Section 15.05 Authority.* Each of the parties represents to the other that (a) it has the corporate or other requisite power and authority to execute, deliver and perform this Agreement, (b) the execution, delivery and performance of this Agreement have been duly authorized by all necessary corporate or other action, (c) it has duly and validly executed and delivered this Agreement, and (d) this Agreement is a legal, valid and binding obligation, enforceable against it in accordance with its terms, subject to applicable bankruptcy, insolvency, reorganization, moratorium or other similar Laws affecting creditors' rights generally and general equity principles.

*Section 15.06 Further Action.* Each party shall execute and deliver all documents, provide all information, and take or refrain from taking action as may be necessary or appropriate to achieve the purposes of this Agreement, including the execution and delivery to the other party and their Affiliates and representatives of such powers of attorney or other authorizing documentation as is reasonably necessary or appropriate in connection with Tax Contests (or portions thereof) under the control of such other party in accordance with Section 9.

*Section 15.07 Integration.* This Agreement contains the entire agreement between the Companies with respect to the subject matter hereof and supersedes all other agreements, whether or not written, in respect of any Taxes between or among any member or members of a party's Group, on the one hand, and any member or members of the other party's Group, on the other hand. All such other agreements shall be of no further effect between the parties and any rights or obligations existing thereunder shall be fully and finally settled, calculated as of the date hereof. In the event of any inconsistency between this Agreement and the Separation Agreement or any of the Conveyancing and Assumption Instruments (as defined in the Separation Agreement), or any other agreements relating to the transactions contemplated by the Separation Agreement, with respect to the subject matter hereof, the provisions of this Agreement shall control.

*Section 15.08 Construction.* The language in all parts of this Agreement shall in all cases be construed according to its fair meaning and shall not be strictly construed for or against any party. The captions, titles and headings included in this Agreement are for convenience only, and do not affect this Agreement's construction or interpretation. Unless otherwise indicated, all "Section" references in this Agreement are to sections of this



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Agreement. References in this Agreement to any gender include references to all genders, and references to the singular include references to the plural and vice versa. Unless the context otherwise requires, the words “include,” “includes” and “including” when used in this Agreement shall be deemed to be followed by the phrase “without limitation.” Unless the context otherwise requires, the words “hereof,” “hereby” and “herein” and words of similar meaning when used in this Agreement refer to this Agreement in its entirety and not to any particular Article, Section or provision of this Agreement. The words “written request” when used in this Agreement shall include email. Reference in this Agreement to any time shall be to New York City, New York time unless otherwise expressly provided herein.

*Section 15.09 No Double Recovery.* No provision of this Agreement shall be construed to provide an indemnity or other recovery for any costs, damages, or other amounts for which the damaged party has been fully compensated under any other provision of this Agreement or under any other agreement or action at Law or equity. Unless expressly required in this Agreement, a party shall not be required to exhaust all remedies available under other agreements or at Law or equity before recovering under the remedies provided in this Agreement.

*Section 15.10 Currency.* Without the consent of the party receiving any payment under this Agreement specifying otherwise, all payments to be made by RemainCo or ElectronicsCo under this Agreement shall be made in U.S. dollars. Except as expressly provided herein, any amount which is not expressed in U.S. dollars shall be converted into U.S. dollars by using the Bloomberg fixing rate at 5:00 p.m. New York City Time on the day before the date the payment is required to be made or, as applicable, on which an invoice is submitted (provided, however, that with regard to any payments in respect of payments made to third parties, including any Tax Authority, the date shall be the day before the relevant payment was made to the third party) or in the Wall Street Journal on such date if not so published on Bloomberg. Except as expressly provided herein, in the event that any indemnification payment required to be made hereunder may be denominated in a currency other than U.S. dollars, the amount of such payment shall be converted into U.S. dollars on the date in which notice of the claim is given to the indemnifying party.

*Section 15.11 Counterparts.* The parties may execute this Agreement in multiple counterparts, each of which constitutes an original as against the party that signed it, and all of which together constitute one agreement. This Agreement is effective upon delivery of one executed counterpart from each party to the other party. The signatures of the parties need not appear on the same counterpart. The delivery of signed counterparts by facsimile or email transmission that includes a copy of the sending party’s signature is as effective as signing and delivering the counterpart in person.

*Section 15.12 Governing Law.* This Agreement and any dispute arising out of, in connection with or relating to this Agreement shall be governed by and construed in accordance with the Laws of the State of Delaware, without giving effect to the conflicts of laws principles thereof.

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*Section 15.13 Jurisdiction.* If any dispute arises out of or in connection with this Agreement, except as expressly contemplated by another provision of this Agreement, the parties irrevocably (and the parties will cause each other member of their respective Group to irrevocably) (a) consent and submit to the exclusive jurisdiction of federal and state courts located in Delaware, (b) waive any objection to that choice of forum based on venue or to the effect that the forum is not convenient, and (c) WAIVE TO THE FULLEST EXTENT PERMITTED BY LAW ANY RIGHT TO TRIAL OR ADJUDICATION BY JURY.

*Section 15.14 Amendment.* The parties may amend this Agreement only by a written agreement signed by each party to be bound by the amendment and that identifies itself as an amendment to this Agreement.

*Section 15.15 ElectronicsCo Subsidiaries.* If, at any time, ElectronicsCo acquires or creates one or more subsidiaries that are includable in its Group, such subsidiaries shall be subject to this Agreement and all references to the ElectronicsCo Group herein shall thereafter include a reference to such subsidiaries.

*Section 15.16 Successors.* This Agreement shall be binding on and inure to the benefit of any successor by merger, acquisition of assets, or otherwise, to any of the parties hereto (including, but not limited, to any successor of RemainCo or ElectronicsCo succeeding to the Tax attributes of such Company under Section 381 of the Code), to the same extent as if such successor had been an original party to this Agreement.

*Section 15.17 Injunctions.* The parties acknowledge that irreparable damage would occur in the event that any of the provisions of this Agreement were not performed in accordance with its specific terms or were otherwise breached. The parties hereto shall be entitled to an injunction or injunctions to prevent breaches of the provisions of this Agreement and to enforce specifically the terms and provisions hereof in any court having jurisdiction, such remedy being in addition to any other remedy to which they may be entitled at Law or in equity.

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IN WITNESS WHEREOF, each party has caused this Agreement to be executed on its behalf by a duly authorized officer on the date first set forth above.

DUPONT DE NEMOURS, INC., a Delaware corporation

By: /s/ Erik T. Hoover

Name: Erik T. Hoover

Title: Senior Vice President and General Counsel

QNITY ELECTRONICS, INC., a Delaware corporation

By: /s/ Jon D. Kemp

Name: Jon D. Kemp

Title: Chief Executive Officer

[Signature Page to Tax Matters Agreement]

**EMPLOYEE MATTERS AGREEMENT**

**by and between**

**QNTY ELECTRONICS, INC.**

**and**

**DUPONT DE NEMOURS, INC.**

**Effective as of November 1, 2025**

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## TABLE OF CONTENTS

|                                                                                                                              | Page |
|------------------------------------------------------------------------------------------------------------------------------|------|
| ARTICLE I                                                                                                                    |      |
| GENERAL PRINCIPLES                                                                                                           |      |
| Section 1.01 Employees                                                                                                       | 1    |
| Section 1.02 Employment of Impacted Employees                                                                                | 2    |
| Section 1.03 Pay and Benefits                                                                                                | 3    |
| Section 1.04 ElectronicsCo Benefit Plans or RemainCo Benefit Plans, as Applicable, as of no later than the Distribution Date | 3    |
| Section 1.05 Length of Service Crediting                                                                                     | 4    |
| Section 1.06 Vacation                                                                                                        | 4    |
| Section 1.07 Severance                                                                                                       | 4    |
| Section 1.08 Annual Cash Incentives                                                                                          | 5    |
| Section 1.09 Equity Awards                                                                                                   | 5    |
| Section 1.10 Pension/OPEB/Welfare Benefit Claims                                                                             | 8    |
| Section 1.11 Labor Matters                                                                                                   | 9    |
| Section 1.12 Expatriate Assignments                                                                                          | 10   |
| Section 1.13 Non-Solicitation                                                                                                | 10   |
| Section 1.14 Employee Records                                                                                                | 11   |
| Section 1.15 HR Liabilities                                                                                                  | 11   |
| Section 1.16 Indemnification                                                                                                 | 13   |
| Section 1.17 Compliance with Applicable Laws                                                                                 | 13   |
| Section 1.18 Transition Services                                                                                             | 13   |
| Section 1.19 Good-Faith Negotiations                                                                                         | 13   |
| Section 1.20 Third-Party Beneficiaries                                                                                       | 14   |
| Section 1.21 Effective Time                                                                                                  | 14   |
| Section 1.22 Assignment Of Employment Agreements                                                                             | 14   |
| ARTICLE II                                                                                                                   |      |
| UNITED STATES                                                                                                                |      |
| Section 2.01 U.S. Tax-Qualified Defined Contribution Plans                                                                   | 14   |
| Section 2.02 U.S. Non-Retiree Welfare Benefits                                                                               | 15   |
| Section 2.03 Non-Qualified Deferred Compensation Plans                                                                       | 15   |
| Section 2.04 Workers' Compensation Claims                                                                                    | 16   |
| Section 2.05 Payroll and Related Taxes                                                                                       | 16   |

---

ARTICLE III  
ADDITIONAL DEFINED TERMS

|              |                                       |    |
|--------------|---------------------------------------|----|
| Section 3.01 | Certain Defined Terms                 | 16 |
| Section 3.02 | Other Defined Terms in this Agreement | 23 |

ARTICLE IV  
GENERAL PROVISIONS

|              |                                                                                                               |    |
|--------------|---------------------------------------------------------------------------------------------------------------|----|
| Section 4.01 | General                                                                                                       | 24 |
| Section 4.02 | Limitation of Liability                                                                                       | 24 |
| Section 4.03 | Transfers Not Effected on or Prior to the Effective Time; Transfers Deemed Effective as of the Effective Time | 24 |
| Section 4.04 | Wrong Pockets                                                                                                 | 25 |
| Section 4.05 | Novation of Liabilities                                                                                       | 25 |
| Section 4.06 | Negotiation and Arbitration                                                                                   | 25 |
| Section 4.07 | Insurance                                                                                                     | 26 |
| Section 4.08 | Miscellaneous                                                                                                 | 26 |

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## EMPLOYEE MATTERS AGREEMENT

This EMPLOYEE MATTERS AGREEMENT (the “Agreement”), dated effective as of November 1, 2025, by and among DuPont de Nemours, Inc., a Delaware corporation (“RemainCo”), and Qnity Electronics, Inc., a Delaware corporation (“ElectronicsCo”). Each of RemainCo and ElectronicsCo is sometimes referred to herein as a “Party” and collectively, as the “Parties.”

### WITNESSETH:

**WHEREAS**, the Board of Directors of RemainCo (the “Board”) has determined that it is appropriate, desirable, and in the best interests of RemainCo and its stockholders to separate RemainCo into two independent, publicly traded companies: RemainCo and ElectronicsCo;

**WHEREAS**, in order to effect such separation, upon the terms and subject to the conditions set forth in the Separation and Distribution Agreement, dated as of the date hereof, between RemainCo and ElectronicsCo (the “Separation Agreement”), the Parties entered into an internal separation; and

**WHEREAS**, in connection with the transactions contemplated by the Separation Agreement, the Parties wish to enter into this Agreement in respect of certain employee matters.

**NOW, THEREFORE**, in consideration of the foregoing and the mutual covenants and agreements herein contained, and intending to be legally bound hereby, the Parties hereby agree as follows:

Capitalized terms used herein but not defined in Section 3.01 or elsewhere in this Agreement shall have the meaning ascribed to such term in the Separation Agreement.

## ARTICLE I

### GENERAL PRINCIPLES

Except as set forth otherwise in this Agreement, the following general principles shall apply:

Section 1.01 Employees.

(a) Prior to the commencement of the Internal Reorganization, RemainCo Ring-Fenced the ElectronicsCo Employees and RemainCo Employees pursuant to an internal organization design and talent selection process and as approved by the senior leadership of RemainCo. As of and following the Internal Reorganization up until the Distribution Date, updates to the Ring-Fence shall only be made to reflect: (i) any Employee who became a Non-Consenting Employee on or following the commencement of the Internal Reorganization; (ii) any new hires; (iii) any terminations (including terminations for cause, resignations, retirements or terminations due to death or disability); (iv) corrections of good faith errors or omissions by RemainCo; and (v) any other change approved in writing by the Chief Human Resources Officer of RemainCo.

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(b) For a period of ninety (90) days following the Distribution Date, if RemainCo determines that a RemainCo or ElectronicsCo Employee was selected for alignment to the wrong Party (a “Ring-Fence Error”), then the Chief Human Resources Officer of RemainCo shall notify the Chief Human Resources Officer of ElectronicsCo of such Ring-Fence Error. Thereafter, the respective Chief Human Resources Officers shall cooperate in good faith to resolve the Ring-Fence Error, including by facilitating the transfer of employment of any improperly Ring-Fenced employee to the employment of the appropriate Party. The Party to which an improperly Ring-Fenced employee should have been Ring-Fenced absent the error shall assume any severance Liabilities incurred in relation to the transfer of employment.

Section 1.02 Employment of Impacted Employees.

(a) Except to the extent otherwise required by applicable Law, as otherwise provided in this Agreement or with respect to any Non-Consenting Employees, prior to the Distribution Date, the applicable Parties caused, or caused the applicable members of their Groups to cause, other than with respect to any Delayed Employment Employees: (i) RemainCo Employees to be employed by (or continue to be employed by) RemainCo or a member of the RemainCo Group and to cease to be employed by ElectronicsCo or a member of the ElectronicsCo Group; and (ii) ElectronicsCo Employees to be employed by (or continue to be employed by) ElectronicsCo or a member of the ElectronicsCo Group and to cease to be employed by RemainCo or a member of the RemainCo Group.

(b) To the extent any applicable Law, Governmental Entity, Employee Representative Body or consultation obligation, administrative error, or immigration application prevented the Parties or the members of the applicable Groups from carrying out the transfers of employment set forth in Section 1.02(a) prior to the Distribution Date, with respect to any Impacted Employee (each such employee, a “Delayed Employment Employee”), the applicable Parties shall, or shall cause the members of the applicable Groups to, carry out the transfers of employment (including by offers of employment, employer substitution, entry into tripartite agreements or similar methods of transfers of employment) under Section 1.02(a) with respect to such employee on the earliest permissible date following the Distribution Date (the “Delayed Employment Date”). The obligations under this Agreement of the Party that will become the employer (directly or indirectly) of a Delayed Employment Employee shall not commence until the Delayed Employment Date. For the avoidance of doubt, such delay shall not constitute a breach of obligations under Section 1.04.

(c) Notwithstanding anything to the contrary in Section 1.02 or Section 1.04, it shall not constitute a breach of this Agreement for RemainCo or the applicable member of the RemainCo Group, or ElectronicsCo or the applicable member of the ElectronicsCo Group, that employs a Delayed Employment Employee as of immediately prior to the Distribution Date to not effect the change of such Person’s employment pursuant to Section 1.02 until the Delayed Employment Date.



(d) Except to the extent otherwise required by applicable Law or a Labor Agreement, immediately after the Distribution Date in the United States, ElectronicsCo shall, or shall cause the applicable member of the ElectronicsCo Group to, continue to employ an ElectronicsCo Employee who is an STD Employee and will provide such employee with a leave of absence and an amount equivalent to the disability or income replacement benefits such employee received from RemainCo immediately before the Distribution Date; provided, however, that to the extent such individual, as of the Distribution Date, is receiving or is entitled to receive short-term disability benefits and subsequent to the Distribution Date and before returning to active employment with ElectronicsCo or a member of the ElectronicsCo Group, becomes eligible to receive long-term disability benefits under a RemainCo Benefit Plan, then RemainCo shall permit such individual to receive long-term disability benefits under a RemainCo Benefit Plan until such individual is no longer disabled or is no longer eligible for such benefits (each such individual, an “LTD Employee”); provided, however, that any such LTD Employee will not be employed by RemainCo while receiving long-term disability benefits under a RemainCo Benefit Plan.

Section 1.03 Pay and Benefits. Except to the extent otherwise required by applicable Law, applicable Labor Agreement, or as provided otherwise in this Agreement, as of no later than the Distribution Date and for a period of twelve (12) months following the Distribution Date, ElectronicsCo shall, or shall cause the applicable member of the ElectronicsCo Group to, provide each ElectronicsCo Employee with: (i) base pay or a wage rate, as applicable, that is no less than the base pay or wage rate such ElectronicsCo Employee received immediately prior to the Distribution Date; (ii) target short-term incentive compensation opportunities that are no less favorable than those received by such ElectronicsCo Employee immediately prior to the Distribution Date; (iii) target long-term incentive compensation opportunities that are no less favorable than those received by such ElectronicsCo Employee immediately prior to the Distribution Date; (iv) employee benefits substantially no less favorable in the aggregate to those received by such ElectronicsCo Employee immediately prior to the Distribution Date; and (v) paid time off (e.g., vacation and additional personal paid time off, but excluding the RemainCo Vacation Buy Program, disability and other medical-related leaves of absence) no less favorable than the paid time off such ElectronicsCo Employee was eligible for immediately prior to the Distribution Date.

Section 1.04 ElectronicsCo Benefit Plans or RemainCo Benefit Plans, as Applicable, as of no later than the Distribution Date.

(a) *Enrollment in Benefit Plans*. Except to the extent otherwise required by applicable Law, applicable Labor Agreement, or as provided otherwise in this Agreement, including as set forth on Schedule 1.04(a) to this Agreement and Section 1.02(d), other than with respect to the Delayed Employment Employees (in which case, for the avoidance of doubt, the obligations of the applicable Party (or its applicable Affiliate) shall commence upon the Delayed Employment Date, as the case may be):

(i) (I) RemainCo shall, or shall have caused the applicable member of the RemainCo Group to, take all actions required to cause, as of no later than the Distribution Date, each ElectronicsCo Employee to cease to be an active participant in any Benefit Plan that will not be an ElectronicsCo Benefit Plan as of the Distribution Date; and (II) ElectronicsCo shall, or shall have caused the applicable member of the ElectronicsCo Group to, take all actions required to cause, each ElectronicsCo Employee who is employed by ElectronicsCo or a member of the ElectronicsCo Group to commence participation, as of no later than the Distribution Date, in all ElectronicsCo Benefit Plans for which he or she is eligible; and

(ii) ElectronicsCo shall, or shall have caused the applicable member of the ElectronicsCo Group to, take all actions required to cause, as of no later than the Distribution Date, each RemainCo Employee to cease to be an active participant in any Benefit Plan that will not be a RemainCo Benefit Plan as of the Distribution Date.

(b) Effective as of no later than the Distribution Date, ElectronicsCo shall, and shall have caused the members of the ElectronicsCo Group to, and as applicable shall have used best efforts to cause other Persons to: (i) waive any limitations as to preexisting conditions, evidence of insurability, exclusions, and waiting periods with respect to participation and coverage requirements for each Impacted Employee under his or her respective plans; and (ii) credit such Impacted Employee, for the plan year in which the Distribution Date occurs, with the amount of any coinsurance, deductibles and out-of-pocket maximums he or she paid prior to the applicable Distribution Date during the plan year in which the Distribution Date occurs.

Section 1.05 Length of Service Crediting. Except to the extent otherwise required by applicable Law, applicable Labor Agreement, or as otherwise provided in this Agreement, effective as of no later than the Distribution Date, ElectronicsCo shall, or shall have caused the applicable member of the ElectronicsCo Group to, recognize all service of any ElectronicsCo Employee with RemainCo or any of its Affiliates and with any predecessor employer (to the extent such predecessor employer service was taken into account under the applicable Benefit Plan) for all purposes (including, for purposes of vesting, eligibility to participate and receive benefits, benefit forms, premium subsidies or credits, early retirement and waiver of any reduction factors, and benefit calculations and accruals) under any ElectronicsCo Benefit Plans, or ElectronicsCo Future Benefit Plans in which such ElectronicsCo Employee is, or becomes, eligible to participate on, or after, the Distribution Date (provided that vacation attributable to imputed or pre-employment service may be credited as other paid time off); provided, however, that, notwithstanding the foregoing, ElectronicsCo and each member of the ElectronicsCo Group shall not be required to recognize such service for purposes of benefit accruals under any ElectronicsCo Benefit Plans or ElectronicsCo Future Benefit Plans that (i) are defined benefit pension plans, (ii) are other post-employment benefit plans (for the avoidance of doubt, exclusive of Severance), or (iii) would result in the duplication of any benefits thereunder or the funding thereof.

Section 1.06 Vacation. Except to the extent otherwise required by applicable Law or applicable Labor Agreement, and notwithstanding anything to the contrary in this Agreement, as of no later than the Distribution Date, ElectronicsCo shall have Assumed, or caused the applicable member of the ElectronicsCo Group to Assume, all Liabilities for earned but unused vacation benefits of the ElectronicsCo Employees (the “ElectronicsCo Assumed Vacation Liabilities”), and all members of the RemainCo Group were relieved of, and shall have no Liabilities with respect to, such ElectronicsCo Assumed Vacation Liabilities as of the date of such Assumption.

Section 1.07 Severance.

(a) *Severance for Terminations on or Prior to Distribution Date*. Except to the extent otherwise required by applicable Law, applicable Labor Agreement, or as otherwise provided in this Agreement, if Severance was paid to any individual on or before the Distribution Date, the applicable entity that was the employing legal entity of such individual was responsible for making, and made, such payment of Severance pursuant to the applicable RemainCo Severance Plan and otherwise pursuant to the applicable Labor Agreement or applicable Law.

(b) *Severance for Terminations Following the Distribution Date.* Except to the extent otherwise required by applicable Law, applicable Labor Agreement, or as otherwise provided in this Agreement, if ElectronicsCo or any member of the ElectronicsCo Group terminates the employment of any ElectronicsCo Employee within twelve (12) months following the Distribution Date for any reason that entitles such employee to cash Severance under the applicable ElectronicsCo Severance Plan, ElectronicsCo shall pay to such employee at least the amount of cash Severance such employee would have received under the applicable RemainCo Severance Plan, in place immediately prior to the Distribution Date. The calculation of cash Severance shall factor in his or her additional length of service and changes in his or her eligible pay between the Distribution Date and the date of his or her termination, but without regard to any period of service before the Distribution Date that was taken into account in determining the amount of cash Severance actually previously paid or provided by any Party before the Distribution Date.

Section 1.08 Annual Cash Incentives. Annual cash incentive compensation earned or accrued by or in respect of any RemainCo Employee or ElectronicsCo Employee for the fiscal year in which the Distribution Date occurs shall be paid by a member of the applicable Group, in the year following the year in which the Distribution Date occurs, pursuant to the terms and conditions of the applicable Group annual cash incentive plan or policy in place on the Distribution Date.

Section 1.09 Equity Awards. Except as set forth on Schedule 1.09 to this Agreement:

(a) *Shareholder Method Awards.* Each Shareholder Method Award that is outstanding as of immediately prior to the Distribution shall be converted, effective as of the Distribution Date, into an ElectronicsCo Equity Award and a RemainCo Equity Award, and, immediately following such conversion, (i) the number of shares of ElectronicsCo Common Stock subject to such ElectronicsCo Equity Award (an “Adjusted ElectronicsCo Shareholder Method Award”) shall be equal to the number of shares of ElectronicsCo Common Stock that would have been received in the Distribution had the RemainCo Common Stock underlying the Shareholder Method Award been issued and outstanding immediately prior to the Distribution and (ii) the number of shares of RemainCo Common Stock subject to such RemainCo Equity Award (an “Adjusted RemainCo Shareholder Method Award”) shall be equal to the number of shares of RemainCo Common Stock subject to such RemainCo Equity Award immediately prior to the Distribution.

(b) *Employer Method Other Awards.* In the case of an Employer Method Other Award that is outstanding as of immediately prior to the Distribution and that is held by an ElectronicsCo Employee, such Employer Method Other Award shall be converted, as of the Distribution Date, into a time-based restricted stock unit (an “Adjusted ElectronicsCo RSU”) with respect to a number of ElectronicsCo Common Shares equal to (x) the number of shares of RemainCo Common Stock subject to the Employer Method Other Award, *multiplied by* (y) the ElectronicsCo Conversion Ratio, with such resulting number of ElectronicsCo Common Shares rounded up to the nearest number of whole shares (but with shares in respect of dividend equivalent units rounded to four decimal places).

(c) *Employer Method Option/SAR Award.* In the case of an Employer Method Option/SAR Award that is outstanding as of immediately prior to the Distribution and that is held by an ElectronicsCo Employee, such Employer Method Option/SAR Award shall be converted, as of the Distribution Date, into an option or stock appreciation right, as applicable (an “Adjusted ElectronicsCo Option/SAR”), in respect of a number of shares of ElectronicsCo Common Stock, rounded down to the nearest number of whole shares, equal to the product of the number of shares subject to the Employer Method Option/SAR Award multiplied by the ElectronicsCo Conversion Ratio, and with a per-share exercise price, rounded up to the nearest whole cent, equal to the Employer Method Option/SAR Award per share exercise price divided by the ElectronicsCo Conversion Ratio.

(d) *Award Terms; Vesting; Treatment of Service.* Except as otherwise provided in this Section 1.09, the terms and conditions applicable to the Adjusted ElectronicsCo Shareholder Method Awards, Adjusted RemainCo Shareholder Method Awards, Adjusted ElectronicsCo RSUs and Adjusted ElectronicsCo Option/SARs shall be substantially identical to the terms and conditions applicable to the applicable underlying RemainCo Equity Award (as set forth in the applicable plan, award agreement or in any otherwise applicable agreement with RemainCo or its Affiliates). All ElectronicsCo Equity Awards shall become vested upon the date the underlying RemainCo Equity Award would have otherwise vested in accordance with the existing terms and vesting schedule. For the avoidance of doubt, each Converted PSU that becomes an ElectronicsCo Equity Award shall be subject to solely service-based vesting conditions but shall otherwise remain subject to the same terms, conditions and vesting schedule as applied to such RemainCo Equity Award prior to the Distribution. For purposes of determining continued vesting in ElectronicsCo Equity Awards, continued service by the holder to the ElectronicsCo Group shall be treated as continuous service with ElectronicsCo.

(e) *Certain Additional Considerations.* Notwithstanding anything to the contrary in this Section 1.09:

(i) To the extent the Board determines before the Distribution Date that the treatment of an award as a Shareholder Method Award is not practicable due to applicable Laws or the potential imposition of adverse Taxes or penalties, such awards shall be treated as Employer Method Awards.

(ii) The Parties shall cooperate in good faith, in respect of jurisdictions outside the United States, to treat Shareholder Method Awards as Employer Method Awards where Tax or regulatory considerations render the treatment of Shareholder Method Awards unduly burdensome to the holder thereof.

(iii) All of the adjustments described in this Section 1.09 shall be effected in accordance with Sections 409A and 424 of the Code.

(iv) The Parties hereby acknowledge that the provisions of this Section 1.09 are intended to achieve certain Tax, legal and accounting objectives and, in the event such objectives are not achieved, the Parties agree to negotiate in good faith regarding such other actions that may be necessary or appropriate to achieve such objectives.

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(f) *Equity Plan Adoption; Registration Statement.*

(i) Effective as of the Distribution Date, ElectronicsCo shall have adopted an equity incentive plan (the “ElectronicsCo Stock Plan”), which permits the issuance of ElectronicsCo Equity Awards as described in this Section 1.09. The ElectronicsCo Stock Plan was approved before the Distribution Date by RemainCo as ElectronicsCo’s sole stockholder.

(ii) ElectronicsCo shall use commercially reasonable efforts to maintain effective registration statements with the Securities and Exchange Commission with respect to the ElectronicsCo Equity Awards described in this Section 1.09, to the extent any such registration statement is required by applicable Law.

(g) *Settlement, Delivery; Tax Reporting and Withholding.*

(i) From and after the applicable Distribution Date, (x) ElectronicsCo shall have sole responsibility for the settlement of and/or delivery of shares of ElectronicsCo Common Stock pursuant to ElectronicsCo Equity Awards to any holder of such award and shall be solely entitled to any exercise price payable in respect of ElectronicsCo Options, and except as otherwise provided in this Section 1.09(g) each ElectronicsCo shall do so without compensation from RemainCo, and (y) RemainCo shall have sole responsibility for the settlement of and/or delivery of shares of RemainCo Common Stock pursuant to RemainCo Equity Awards to any holder of such award and shall be solely entitled to any exercise price payable in respect of RemainCo Options, and except as otherwise provided in this Section 1.09(g) each RemainCo shall do so without compensation from ElectronicsCo.

(ii) Upon the vesting, payment or settlement, as applicable, of ElectronicsCo Equity Awards (in each case including with respect to dividends and dividend equivalents), ElectronicsCo shall be solely entitled to a Tax deduction in respect of, and shall be solely responsible for ensuring the satisfaction of all applicable Tax withholding requirements on behalf of, each holder thereof who is or, upon their last employment termination, was employed by a member of the ElectronicsCo Group (or who holds the award in respect of any such individual), and for ensuring the collection and remittance of applicable employee withholding Taxes to the applicable Governmental Entity. To the extent shares of ElectronicsCo Common Stock are withheld and/or delivered to satisfy Tax withholding obligations in respect of the vesting, payment or settlement of ElectronicsCo Equity Awards, to the extent the issuer is not responsible pursuant to this clause (ii) for satisfying the applicable Tax withholding and remittance requirements, the issuer shall remit to the responsible Party cash in an amount sufficient to satisfy such requirements.

(iii) ElectronicsCo shall establish an appropriate administration system in order to handle in an orderly manner exercises of ElectronicsCo Options and the settlement of other ElectronicsCo Equity Awards and to effect the Tax benefits and obligations contemplated by this subsection (g). Each of the Parties shall work together to unify and consolidate all indicative data and payroll and employment information on regular timetables and make certain that each applicable entity's data and records in respect of such awards are correct and updated on a timely basis. The foregoing shall include employment status and information required for Tax withholding/remittance, compliance with trading windows and compliance with the requirements of applicable Laws.

Section 1.10 Pension/OPEB/Welfare Benefit Claims.

(a) *Non-U.S. Pension Plans*.

(i) Except to the extent required by applicable Law or as otherwise provided in subsection (b)(ii), below, there shall be no Transfer of Assets or Liabilities (including, without limitation, with respect to Actions) between, or otherwise among the Parties in respect of, any Benefit Plan maintained by any of them or their respective Affiliates that is a non-U.S. defined benefit pension plan. For the avoidance of doubt, Schedule 1.10(a)(i) to this Agreement identifies those arrangements where there shall be a Transfer of Assets or Liabilities or both as required by applicable Law, and any arrangement not identified on such Schedule shall be deemed for purposes of this Agreement to be one for which such a Transfer of Assets or Liabilities is not required by applicable Law.

(ii) To the extent provided in Schedule 1.10(a)(ii) to this Agreement, the Parties shall cause the Transfer of Assets or Liabilities between, or otherwise among them in respect of, any Benefit Plan maintained by any of them or their respective Affiliates that are non-U.S. defined benefit pension plans, although such Transfer of Assets or Liabilities is not otherwise required by applicable Law.

(b) *Other Post-Employment Benefits ("OPEB")*.

(i) Except to the extent required by applicable Law or as otherwise provided in Section 1.10(b)(ii) or Section 1.10(b)(iii), below, there shall be no Transfer of Assets or Liabilities (including, without limitation, with respect to Actions) between, or otherwise among the Parties in respect of, any OPEB Plan. For the avoidance of doubt, Schedule 1.10(b)(i) to this Agreement identifies those OPEB Plans where there shall be a Transfer of Assets or Liabilities or both as required by applicable Law. Any OPEB Plan not identified on such Schedule shall be deemed for purposes of this Agreement to be one for which such a Transfer of Assets or Liabilities is not required by applicable Law.

(ii) The Benefit Plans identified on Schedule 1.10(b)(ii) to this Agreement shall be Assumed as indicated therein.

(iii) Notwithstanding anything to the contrary in Sections 1.03, 1.04 or 1.10, RemainCo shall Assume (or cause a member of its Group to Assume) Liabilities related to the RemainCo Long-Term Care Insurance Plan, which shall not be considered a Benefit for purposes of Section 1.03 or a Benefit Plan for purposes of Section 1.04.

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(c) *Welfare Benefit Claims*. Notwithstanding anything to the contrary in this Agreement and except as set forth on Schedule 1.10(c), to this Agreement, ElectronicsCo shall remain responsible for any claims under any Benefit Plans that are welfare benefits plans that were incurred prior to the Distribution Date with respect to each ElectronicsCo Employee who is employed by ElectronicsCo or a member of the ElectronicsCo Group immediately prior to the Internal Reorganization. Except in the event of any claim for workers' compensation benefits for purposes of Section 2.04, any claims shall be deemed to be incurred pursuant to the terms and conditions of the Benefit Plans that are welfare benefits plans; provided that the Parties shall use their best efforts to ensure that there is no failure to cover any claim that otherwise would have been covered under a Benefit Plans that are welfare benefits plans but for the provisions of this Agreement.

Section 1.11 Labor Matters. As of no later than the Distribution Date, (i) RemainCo or the applicable members of the RemainCo Group, shall have Assumed, in accordance with its terms, each of the RemainCo Labor Agreements covering RemainCo Employees immediately prior to the commencement of the Internal Reorganization; provided, however, that, with respect to any such RemainCo Labor Agreement that also covers ElectronicsCo Employees, RemainCo or the applicable member of the RemainCo Group shall have Assumed such RemainCo Labor Agreement only with respect to the RemainCo Employees, ElectronicsCo or a member of the ElectronicsCo Group, as applicable, shall have Assumed such RemainCo Labor Agreement only with respect to the ElectronicsCo Employees, as applicable; and (ii) ElectronicsCo or the applicable members of the ElectronicsCo Group shall have Assumed, in accordance with its terms, each of the ElectronicsCo Labor Agreements covering ElectronicsCo Employees immediately prior to the commencement of the Internal Reorganization; provided, however, that, with respect to any such ElectronicsCo Labor Agreement that also covers RemainCo Employees, ElectronicsCo or the applicable member of the ElectronicsCo Group shall have Assumed such ElectronicsCo Labor Agreement only with respect to ElectronicsCo Employees and RemainCo, a member of the RemainCo Group, as applicable, shall have Assumed such ElectronicsCo Labor Agreement only with respect to RemainCo Employees, as applicable. Notwithstanding anything to the contrary in this Agreement, as of the Distribution Date, except as agreed with the applicable union or labor organization: (i) RemainCo shall continue to honor, or cause the applicable members of the RemainCo Group to continue to honor, in accordance with their terms, each of the RemainCo Labor Agreements; and (ii) ElectronicsCo shall continue to honor, or cause the applicable members of the ElectronicsCo Group to continue to honor, in accordance with their terms, each of the ElectronicsCo Labor Agreements. As of no later than the Distribution Date, each Party complied, or caused the applicable member of its Group to comply, with any obligations it had under applicable Laws and applicable Labor Agreements to inform and/or consult with any Employee Representative Body or group of employees in connection with this Agreement, the arrangements proposed in this Agreement, the Internal Reorganization and/or the Distributions.

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#### Section 1.12 Expatriate Assignments.

(a) *Allocation of Liabilities for Concluded Expatriate Assignments.* Except to the extent otherwise required by applicable Law, and notwithstanding anything to the contrary in Section 1.15: (i) RemainCo shall, or shall cause the applicable member of the RemainCo Group to, Assume (1) all Liabilities (including obligations, if any, to administer, or provide post-repatriation benefits or services under, RemainCo's expatriate programs) arising from or relating to each RemainCo Employee whose expatriate assignment ended as of no later than the Distribution Date (without regard to which Party or Group member initiated such expatriate assignment), and (2) all rights to receive any repayment or reimbursement (including repayment or reimbursement of any trailing tax reconciliation or tax equalization by the applicable RemainCo Employee) from such RemainCo Employee; and (ii) ElectronicsCo shall, or shall cause the applicable member of the ElectronicsCo Group to, Assume (1) all Liabilities (including obligations, if any, to administer, or provide post-repatriation benefits or services under, RemainCo's expatriate programs) arising from or relating to each ElectronicsCo Employee whose expatriate assignment ended as of no later than the Distribution Date (without regard to which Party or Group member initiated such expatriate assignment), and (2) all rights to receive any repayment or reimbursement (including repayment or reimbursement of any trailing tax reconciliation or tax equalization by the applicable ElectronicsCo Employee) from such ElectronicsCo Employee.

(b) *Allocation of Liabilities for Ongoing Expatriate Assignments.* Except to the extent otherwise required by applicable Law, and notwithstanding anything to the contrary in Section 1.15: (i) RemainCo shall, or shall cause the applicable member of the RemainCo Group to, Assume all (1) Liabilities (including obligations, if any, to provide post-repatriation benefits or services under RemainCo's expatriate programs; provided that, except as otherwise required by applicable Law or applicable Labor Agreement, there shall be no obligation to continue such benefits or services) arising from or relating to each RemainCo Employee whose expatriate assignment began prior to the Distribution Date and which expatriate assignment is still in progress on the Distribution Date (without regard to which Party or Group member initiated such expatriate assignment); and (2) rights to receive any repayment or reimbursement (including repayment or reimbursement of any trailing tax reconciliation or tax equalization by the applicable RemainCo Employee) from such RemainCo Employee; and (ii) ElectronicsCo shall, or shall cause the applicable member of the ElectronicsCo Group to, Assume all (1) Liabilities (including obligations, if any, to provide post-repatriation benefits or services under RemainCo's expatriate programs, as applicable; provided, that, except as otherwise required by applicable Law or applicable Labor Agreement, there shall be no obligation to continue such benefits or services) arising from or relating to each ElectronicsCo Employee whose expatriate assignment began prior to the Distribution Date, and which expatriate assignment is still in progress on the Distribution Date (without regard to which Party or Group member initiated such expatriate assignment); and (2) rights to receive any repayment or reimbursement (including repayment or reimbursement of any trailing tax reconciliation or tax equalization by the applicable ElectronicsCo Employee) from such ElectronicsCo Employee.

#### Section 1.13 Non-Solicitation.

(a) RemainCo has invested significant time, costs and resources to select the employees for their proper roles within their respective workforces. To ensure that RemainCo receives the benefit of such investments and retains skilled employees necessary to conduct its business, for a period commencing on the Distribution Date and ending twenty-four (24) months following the Distribution Date, without the prior written consent of RemainCo's Chief Human



Resources Officer, ElectronicsCo shall not, and shall cause the members of the ElectronicsCo Group not to, directly or indirectly, solicit, or otherwise hire for employment or engage to provide services: (1) any employee of any member of the RemainCo Group (excluding any ElectronicsCo Employee who is a Delayed Employment Employee, subject to the terms of Section 1.02(b)); or (2) within six (6) months of the applicable termination of employment, any former employee of any member of the RemainCo Group; provided, however, that this Section 1.13(a) shall not apply to an employee who was involuntarily terminated by RemainCo. Notwithstanding the foregoing, the restrictions on solicitation in this Section 1.13(a) shall not apply to hiring for employment or engaging to provide services following response to a solicitation made to the public generally through a bona fide public advertisement or job posting that is not targeted at employees of RemainCo or of any member of the RemainCo Group.

(b) If, at the time of enforcement of this Section 1.13, a court shall hold that the duration, scope or other restrictions stated herein are unreasonable under circumstances then existing, the Parties agree that the maximum duration, scope or other restrictions reasonable under such circumstances shall be substituted for the stated duration, scope or other restrictions and that the court shall be allowed to revise the restrictions contained herein to cover the maximum duration, scope and other restrictions then permitted by applicable Law.

Section 1.14 Employee Records. To the extent required by applicable Law, as of no later than the Distribution Date each Party shall have transferred, and shall have caused the applicable member of its Group to transfer, copies of all applicable employee records, data or information, and compliance-related training documents, with respect to each Impacted Employee to the applicable Party or applicable member of its Group ("Employee Records") in a manner compliant with applicable Law and Section 9.10 (Personal Data) of the Separation Agreement; provided, however, that no transfers were made to the extent such employee records were already in the possession and control of the applicable member of its Group. For the avoidance of doubt, Employee Records do not include (i) "protected health information" under the Health Insurance Portability and Accountability Act of 1996, as amended, or any similar state, local or foreign Law or (ii) performance records. Any employee records, data or information not transferred pursuant to this Section 1.14 shall be preserved by the Party in control of such records, data or information for at least as long as required by applicable Law, and the Party in control of such records, data or information shall provide access to such records, data and information in accordance with and subject to the terms of Section 9.1 (Preservation of Corporate Records) and Section 9.2 (Provision of Corporate Records) of the Separation Agreement.

Section 1.15 HR Liabilities.

(a) *In General.* Except to the extent otherwise required by applicable Law or as otherwise provided in this Agreement: (i) RemainCo shall, or shall cause a member of the RemainCo Group to, Assume all of the RemainCo HR Liabilities; and (ii) ElectronicsCo shall, or shall cause a member of the ElectronicsCo Group to, Assume all of the ElectronicsCo HR Liabilities, in each case, regardless of (A) when or where such Liabilities arose or arise; (B) whether the facts upon which they are based occurred prior to, on, or subsequent to the Effective Time; (C) where or against whom such Liabilities are asserted or determined; (D) regardless of whether arising from or alleged to arise from negligence, gross negligence, recklessness, violation of Law, fraud, or misrepresentation by any member of the RemainCo Group or ElectronicsCo Group, as the case may be, or any of their past or present respective directors, officers, employees, agents, Subsidiaries, or Affiliates; and (E) which entity is named in any Action associated with any Liability.

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(b) *Liabilities for Non-Consenting Employees.* Except to the extent otherwise required by applicable Law or as otherwise provided in this Agreement, including Section 1.07:

(i) RemainCo shall, or shall cause a member of the RemainCo Group to, Assume all of the HR Liabilities related to any Non-Consenting Employee who was Ring-Fenced to be a RemainCo Employee, regardless of (A) when or where such Liabilities arose or arise; (B) whether the facts upon which they are based occurred prior to, on, or subsequent to the Effective Time; (C) where or against whom such Liabilities are asserted or determined; (D) regardless of whether arising from or alleged to arise from negligence, gross negligence, recklessness, violation of Law, fraud, or misrepresentation by any member of the RemainCo Group or ElectronicsCo Group, as the case may be, or any of their past or present respective directors, officers, employees, agents, Subsidiaries, or Affiliates; and (E) which entity is named in any Action associated with any Liability;

(ii) ElectronicsCo shall, or shall cause a member of the ElectronicsCo Group to, Assume all of the HR Liabilities related to any Non-Consenting Employee who was Ring-Fenced to be an ElectronicsCo Employee, regardless of (A) when or where such Liabilities arose or arise; (B) whether the facts upon which they are based occurred prior to, on, or subsequent to the Effective Time; (C) where or against whom such Liabilities are asserted or determined; (D) regardless of whether arising from or alleged to arise from negligence, gross negligence, recklessness, violation of Law, fraud, or misrepresentation by any member of the RemainCo Group or ElectronicsCo Group, as the case may be, or any of their past or present respective directors, officers, employees, agents, Subsidiaries, or Affiliates; and (E) which entity is named in any Action associated with any Liability.

(c) *Liabilities for Former Employees.* Except to the extent otherwise required by applicable Law or as otherwise provided in Section 1.15(b) with respect to Non-Consenting Employees or this Section 1.15(c) with respect to Former Other Business Employees, any HR Liability in respect of individuals who, as of immediately prior to the Distribution Date, are (i) former employees of RemainCo or any of its Affiliates or any of their respective predecessors or former Affiliates, shall be a RemainCo HR Liability; and (ii) former employees of ElectronicsCo or any of its Affiliates or any of their respective predecessors or former Affiliates, shall be an ElectronicsCo HR Liability. With respect to the HR Liabilities pertaining to any Former Other Business Employee, to the extent not otherwise addressed herein, the principles of Article VII (Legacy Liabilities) of the Separation Agreement apply to such HR Liability.

(d) *Joint and Several Liabilities.* With respect to HR Liabilities that, under applicable Law or Labor Agreement, result in joint and several liability between two or more Parties, such HR Liabilities, to the extent not otherwise addressed herein, shall be apportioned among the Parties based on the principles of the Article VIII (Indemnification) of the Separation Agreement in respect of shared liabilities.

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Section 1.16 Indemnification. Except to the extent otherwise required by applicable Law or as otherwise provided in this Agreement:

(a) *RemainCo Indemnification*. RemainCo shall, and shall cause each member of the RemainCo Group to, indemnify, defend, and hold harmless the ElectronicsCo Indemnitees from and against any and all Indemnifiable Losses of the ElectronicsCo Indemnitees to the extent relating to, arising out of, by reason of or otherwise in connection with any failure of RemainCo or any member of the RemainCo Group to discharge any of their respective obligations (including such obligations of RemainCo that may arise prior to the Distribution Date) under this Agreement, including failure to Assume any HR Liability in accordance with this Agreement.

(b) *ElectronicsCo Indemnification*. ElectronicsCo shall, and shall cause each member of the ElectronicsCo Group to, indemnify, defend, and hold harmless the RemainCo Indemnitees from and against any and all Indemnifiable Losses of the RemainCo Indemnitees to the extent relating to, arising out of, by reason of or otherwise in connection with any failure of ElectronicsCo or any member of the ElectronicsCo Group to discharge any of their respective obligations (including such obligations of ElectronicsCo that may arise prior to the Distribution Date) under this Agreement, including failure to Assume any HR Liability in accordance with this Agreement.

(c) The following sections of the Separation Agreement shall apply *mutatis mutandis* to this Agreement as if such provisions had been set out expressly in this Agreement: Section 8.4 (Procedures for Third-Party Claims), excluding Section 8.4(f) thereof, Section 8.5 (Procedures for Direct Claims), Section 8.6 (Cooperation in Defense and Settlement), Section 8.7 (Indemnification Payments), Section 8.8 (Indemnification Obligations Net of Insurance Proceeds and Other Amounts) and Section 8.9 (Additional Matters; Survival of Indemnities).

Section 1.17 Compliance with Applicable Laws. Notwithstanding any obligation set forth in this Agreement, on and following the Distribution Date, each Party shall, and shall cause each member of its Group to, comply with all applicable Laws with respect to the hiring, employment, or termination of employment of any Impacted Employee. For the avoidance of doubt, if any Party or member of its Group fails to discharge its obligations under this section, any Indemnifiable Losses suffered by either of the other two Parties or any members of their respective Groups arising from such failure shall be subject to indemnification pursuant to this Section 1.17.

Section 1.18 Transition Services. Except as expressly provided otherwise in this Agreement, the Parties agree that no member of any Group shall provide, or shall cause to be provided, any transition services on and after the Distribution Date in respect of employee benefits or human resources services for any Impacted Employees.

Section 1.19 Good-Faith Negotiations. Notwithstanding anything in this Agreement to the contrary (including the treatment of outstanding equity awards and annual incentive awards as described herein), the Parties agree to negotiate in good faith regarding the need for any treatment different from that provided herein.

Section 1.20 Third-Party Beneficiaries. Notwithstanding anything contained in the Agreement to the contrary, no provision of this Agreement is intended to, or does, require any Party to keep any Person employed for any period of time or constitute the establishment or adoption of, or amendment to, any Benefit Plan. This Agreement is solely for the benefit of, and is only enforceable by, the Parties and their permitted successors and assigns and should not be deemed to confer upon third parties any remedy, benefit, claim, liability, reimbursement, claim of Action or other right of any nature whatsoever, including any rights of employment for any specified period, in excess of those existing without reference to this Agreement.

Section 1.21 Effective Time. This Agreement shall be effective as of the Effective Time and shall cease to be of any force or effect if the Separation Agreement is terminated.

Section 1.22 Assignment Of Employment Agreements. RemainCo agrees that, notwithstanding the terms of any Employment Agreement between any member of RemainCo Group and any ElectronicsCo Employee, to the extent assignable under the terms of the Employment Agreement, applicable Law, and any applicable Labor Agreement, RemainCo (or the applicable member of the RemainCo Group) hereby assigns all Employment Agreements between any ElectronicsCo Employee and any member of the RemainCo Group to ElectronicsCo (and, to the extent that any such Employment Agreements cannot be assigned under the terms of the Employment Agreement, applicable Law, or an applicable Labor Agreement, RemainCo (or the applicable member of the RemainCo Group) hereby recognizes ElectronicsCo (and any applicable member of the ElectronicsCo Group) as a third-party beneficiary with respect to any Employment Agreements). ElectronicsCo agrees that, notwithstanding the terms of any Employment Agreement between any member of ElectronicsCo Group and any RemainCo Employee, to the extent assignable under the terms of the Employment Agreement, applicable Law, and any applicable Labor Agreement, ElectronicsCo (or the applicable member of the ElectronicsCo Group) hereby assigns all Employment Agreements between any RemainCo Employee and any member of the ElectronicsCo Group to RemainCo (and, to the extent that any such Employment Agreements cannot be assigned under the terms of the Employment Agreement, applicable Law, and any applicable Labor Agreement, ElectronicsCo (or the applicable member of the ElectronicsCo Group) hereby recognizes RemainCo (and any applicable member of the RemainCo Group) as a third-party beneficiary with respect to any Employment Agreements).

## **ARTICLE II**

### **UNITED STATES**

The provisions of this Article II apply only in respect of matters that arise in respect of the employment of individuals within the United States or the termination thereof.

Section 2.01 U.S. Tax-Qualified Defined Contribution Plans. Effective as of the Distribution Date, contributions under the RemainCo Retirement Savings Plan (the "RemainCo 401(k) Plan") shall cease in respect of ElectronicsCo Employees who participated in the RemainCo 401(k) Plan (each, an "ElectronicsCo 401(k) Participant"). Effective as of no later than the Distribution Date, ElectronicsCo shall have adopted, or shall have caused the applicable member of the ElectronicsCo Group to adopt, a defined contribution retirement plan that satisfies the requirements of Section 401(a) and 401(k) of the Code (the "ElectronicsCo 401(k) Plan") and shall permit ElectronicsCo 401(k) Participants to participate therein effective as of the Distribution Date. RemainCo Employees who participate in the RemainCo 401(k) Plan as of the Distribution Date shall continue to participate in the RemainCo 401(k) Plan following the Distribution Date.

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(a) ElectronicsCo 401(k) Participants shall be given credit under the ElectronicsCo 401(k) Plan for all service with RemainCo Group and its respective predecessors as if it were service with ElectronicsCo Group for purposes of determining eligibility and vesting under the ElectronicsCo 401(k) Plan.

(b) ElectronicsCo shall, or shall cause the applicable member of the ElectronicsCo Group to, cause the trustee of the ElectronicsCo 401(k) Plan to accept as a direct rollover (within the meaning of Section 401(a)(31) of the Code) any distribution from the RemainCo 401(k) Plan, excluding any participant loan balances, to the extent the request of such rollover shall not cause the ElectronicsCo 401(k) Plan to fail to satisfy the requirements of Section 401(a) of the Code.

Section 2.02 U.S. Non-Retiree Welfare Benefits.

(a) *Welfare Benefit Plans.* (i) ElectronicsCo shall have designated welfare benefit plans, as of no later than the Distribution Date, for the U.S. ElectronicsCo Employees (the “ElectronicsCo Group U.S. Welfare Plans”); and (ii) RemainCo shall have designated welfare benefit plans, as of no later than the Distribution Date, for the U.S. RemainCo Employees (the “RemainCo Group U.S. Welfare Plans” and, together with the ElectronicsCo Group U.S. Welfare Plans, the “Group U.S. Welfare Plans”).

Section 2.03 Non-Qualified Deferred Compensation Plans.

(a) *In General.* Except as provided in Section 2.03(b) below, prior to the Distribution Date, ElectronicsCo shall, or shall have caused the applicable member of the ElectronicsCo Group to, (i) establish nonqualified deferred compensation plans with terms that are substantially similar to the nonqualified deferred compensation plans identified on Schedule 2.03(a) of this Agreement and (ii) assume the Assets and Liabilities in respect of the deferred compensation plan obligations pertaining to each ElectronicsCo Employee who is a participant in the nonqualified deferred compensation plans identified on Schedule 2.03(a) of this Agreement.

(b) Except as provided in Section 2.03(a), there shall be no Transfer among the Parties or their Affiliates of Assets or Liabilities in respect of nonqualified deferred compensation plans maintained by any of them or their respective Subsidiaries. Effective as of no later than the Distribution Date, the active participation of each ElectronicsCo Employee who is a participant in a nonqualified deferred compensation plan (each, an “ElectronicsCo NQ Participant”) with a “Plan Account” under the Amended and Restated DuPont de Nemours, Inc. Trust Agreement shall cease. The Parties acknowledge that none of the transactions by the Separation Agreement will trigger a payment or distribution of any “Plan Account” and, consequently, that the payment or distribution to which any such participant is entitled will occur upon such participant’s separation from service from a member of the applicable Group or such other time as provided in the applicable nonqualified deferred compensation plan and such participant’s deferral election. Following the Distribution Date, the applicable ElectronicsCo Group shall promptly notify RemainCo if any ElectronicsCo NQ Participant experiences a “separation from service” within the meaning of Section 409A of the Code on or following the Distribution Date.

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Section 2.04 Workers' Compensation Claims.

(a) Without limiting Sections 1.16, 4.03 or 4.04, and without regard to the legal entity obligated to discharge such Liabilities under applicable Law, (i) RemainCo shall be responsible for all claims for workers' compensation benefits which are incurred at any time by RemainCo Employees or former employees of RemainCo or any of its Affiliates or any of their respective predecessors or former Affiliates; and (ii) ElectronicsCo shall be responsible for all claims for workers' compensation benefits which are incurred at any time by ElectronicsCo Employees or former employees of ElectronicsCo or any of its Affiliates or any of their respective predecessors or former Affiliates; provided, however, that (A) if RemainCo is unable to assume any such Liabilities or the administration of any such claim because of applicable Law or Contract, ElectronicsCo or the applicable member of the ElectronicsCo Group shall administer and/or discharge such Liabilities, as applicable, and RemainCo or the applicable member of the RemainCo Group shall reimburse and indemnify ElectronicsCo or the applicable member of the ElectronicsCo Group for all such Liabilities, and (B) if ElectronicsCo is unable to assume any such Liabilities or the administration of any such claim because of applicable Law or Contract, RemainCo or the applicable member of the RemainCo Group shall administer and/or discharge such Liabilities, as applicable, and ElectronicsCo or the applicable member of the ElectronicsCo Group shall reimburse and indemnify RemainCo or the applicable member of the RemainCo Group for all such Liabilities.

(b) For purposes of this Section 2.04, a claim for workers' compensation benefits shall be deemed to be incurred when the event giving rise to the claim occurs, and all Liabilities attributable thereto (regardless when payable) shall be deemed to relate back to such event.

Section 2.05 Payroll and Related Taxes.

(a) *Allocation of Payroll and Related Obligations.* Each entity that is the employing legal entity of any RemainCo Employee or ElectronicsCo Employee during any portion of the year in which the Distribution Date occurs shall, in respect of the period of his or her employment, be responsible in respect of such employee for all payroll obligations, Tax withholdings, other applicable payroll deductions (including garnishments and union dues), and Tax reporting obligations (including delivery of a Form W-2 or similar earnings statement covering the tax year in which the Distribution Date occurs), and the applicable employer shall separately account for any such withholdings or deductions and apply them exclusively in satisfaction of the obligation in respect of which they were withheld or deducted.

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**ARTICLE III**  
**ADDITIONAL DEFINED TERMS**

Section 3.01 Certain Defined Terms. Except as noted in Section 3.02, terms used herein shall have the meanings defined below:

“Action” shall have the meaning ascribed to it in Section 1.1 (Definitions) of the Separation Agreement.

“Affiliate” shall have the meaning ascribed to it in Section 1.1 (Definitions) of the Separation Agreement.

“Ancillary Agreements” shall have the meaning ascribed to it in Section 1.1 (Definitions) of the Separation Agreement.

“Assets” shall have the meaning ascribed to it in Section 1.1 (Definitions) of the Separation Agreement.

“Assume” shall have the meaning ascribed to it in Section 1.1 (Definitions) of the Separation Agreement.

“Benefit Plans” means all compensation and benefit plans, including any welfare plans, medical, dental, and vision plans, life insurance plans, cafeteria plans, retirement plans, and other deferred compensation plans.

“Benefits” means all benefits offered to new hires under the Benefit Plans of the applicable Party or member of the applicable Group.

“Business” shall have the meaning ascribed to it in Section 1.1 (Definitions) of the Separation Agreement.

“Business Day” shall have the meaning ascribed to it in Section 1.1 (Definitions) of the Separation Agreement.

“Code” shall have the meaning ascribed to it in Section 1.1 (Definitions) of the Separation Agreement.

“Consents” shall have the meaning ascribed to it in Section 1.1 (Definitions) of the Separation Agreement.

“Converted PSU” means each RemainCo Equity Award that is a Performance Share Unit granted prior to 2025 which has been adjusted and converted into a Restricted Stock Unit, as determined by the RemainCo Board or a committee thereof based on attainment of the actual level of performance immediately prior to the Distribution Date.

“Conveyancing and Assumption Instrument” shall have the meaning ascribed to it in Section 1.1 of the Separation Agreement.

“Discontinued and/or Divested Operations and Businesses” shall have the meaning ascribed to it in Section 1.1 (Definitions) of the Separation Agreement.

“Distribution” shall have the meaning ascribed to it in Section 1.1 (Definitions) of the Separation Agreement.

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“Distribution Date” shall have the meaning ascribed to it in Section 1.1 (Definitions) of the Separation Agreement.

“Effective Time” shall have the meaning ascribed to it in Section 1.1 (Definitions) of the Separation Agreement.

“ElectronicsCo Assets” shall have the meaning ascribed to it in Section 1.1 (Definitions) of the Separation Agreement.

“ElectronicsCo Business” shall have the meaning ascribed to it in Section 1.1 (Definitions) of the Separation Agreement.

“ElectronicsCo Benefit Plan” means any Benefit Plan that ElectronicsCo or any member of the ElectronicsCo Group sponsors, maintains, or contributes to that is in place as of the Distribution Date.

“ElectronicsCo Conversion Ratio” means a fraction, the numerator of which is the Pre-ElectronicsCo Share Price, and the denominator of which is the Post-ElectronicsCo Share Price.

“ElectronicsCo Employee” means any RemainCo Employee who has been Ring-Fenced to the ElectronicsCo Business, as memorialized in accordance with Section 1.01.

“ElectronicsCo Equity Award” means a RemainCo Equity Award that, after application of Section 1.09, is denominated in ElectronicsCo Common Stock.

“ElectronicsCo Future Benefit Plan” means any Benefit Plan that ElectronicsCo or any member of the ElectronicsCo Group assumes, adopts, establishes, or begins sponsoring, maintaining, or contributing to on or after the Distribution Date.

“ElectronicsCo Group” shall have the meaning ascribed to it in Section 1.1 (Definitions) of the Separation Agreement.

“ElectronicsCo HR Liabilities” means all HR Liabilities for any ElectronicsCo Employee (including any ElectronicsCo Employee who ceases employment with ElectronicsCo and any member of the ElectronicsCo Group prior to the Internal Reorganization or the Distribution Date, as applicable), and any HR Liability allocated to ElectronicsCo pursuant to Section 1.15 or otherwise allocated to ElectronicsCo pursuant to this Agreement.

“ElectronicsCo Indemnitees” shall have the meaning ascribed to it in Section 1.1 (Definitions) of the Separation Agreement.

“ElectronicsCo Labor Agreement” means any agreement with any Employee Representative Body that pertains to any ElectronicsCo Employees.

“ElectronicsCo Option” means each ElectronicsCo Equity Award that is a Stock Option.

“ElectronicsCo SAR” means each ElectronicsCo Equity Award that is a Stock Appreciation Right.



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“ElectronicsCo Severance Plan” means any ElectronicsCo Benefit Plan that provides Severance, as determined as of the applicable Distribution Date.

“Employee Representative Body” means any union, works council, or other agency or representative body certified or otherwise recognized for the purposes of bargaining collectively or established for the purposes of notification of or consultation on behalf of any employees.

“Employment Agreement” means any agreement or contract between any ElectronicsCo Employee or RemainCo Employee with a member of the ElectronicsCo Group or a member of the RemainCo Group, including, but not limited to, restrictive covenant agreements, nondisclosure agreements, intellectual property agreements, work product agreements, confidentiality agreements, offer letters, employment agreements, executive compensation agreements (such as long term or short-term incentive agreements, or other incentive agreements), bonus or incentive agreements, settlement agreements, separation agreements, release agreements, consents, or assignment agreements.

“Employer Method Award” means each RemainCo Equity Award that is not a Shareholder Method Award.

“Employer Method Option/SAR Award” means each Employer Method Award that is not an Employer Method Other Award.

“Employer Method Other Award” means each Employer Method Award that is not a Stock Option or Stock Appreciation Right.

“Final Determination” shall have the meaning ascribed to it in Section 1.1 (Definitions) of the Separation Agreement.

“Former Other Business Employee” means (other than any RemainCo Employees or ElectronicsCo Employees, as applicable) any former employee (as of immediately prior to the Distribution Date) whose employment with the RemainCo Group or ElectronicsCo Group or any of their respective predecessors or former Affiliates was primarily related to the Discontinued and/or Divested Operations and Businesses and who, as of immediately prior to the Distribution Date, was no longer employed by any of the Parties or a member of their Group.

“Governmental Entity” shall have the meaning ascribed to it in Section 1.1 (Definitions) of the Separation Agreement.

“Group” shall have the meaning ascribed to it in Section 1.1 (Definitions) of the Separation Agreement.

“HR Liabilities” means all Liabilities arising out of, by reason of, or otherwise in connection with, the hiring of, employment of, or termination of the employment of any employee by the applicable Party or applicable member of its Group or predecessor thereof.

“Impacted Employee” means each RemainCo Employee and ElectronicsCo Employee, as applicable (other than any such employee who ceases employment with RemainCo and its Affiliates prior to the Distribution Date).

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“Indemnifiable Loss” shall have the meaning ascribed to it in Section 1.1 (Definitions) of the Separation Agreement.

“Indemnifying Party” shall have the meaning ascribed to it in Section 1.1 (Definitions) of the Separation Agreement.

“Indemnitee” shall have the meaning ascribed to it in Section 1.1 (Definitions) of the Separation Agreement.

“Internal Reorganization” shall have the meaning ascribed to it in Section 1.1 (Definitions) of the Separation Agreement.

“Labor Agreement” means any agreement with any Employee Representative Body that pertains to any Impacted Employees.

“Law” shall have the meaning ascribed to it in Section 1.1 (Definitions) of the Separation Agreement.

“Liabilities” shall have the meaning ascribed to it in Section 1.1 (Definitions) of the Separation Agreement.

“Non-Consenting Employee” means: any (i) RemainCo Employee; or (ii) ElectronicsCo Employee, in each of the foregoing cases, who has the right under applicable Law or applicable Labor Agreement to object to, opt out of, refuse to Consent to, or otherwise fail to acquiesce to, and who has (x) validly objected to, opted out of, refused to Consent to, or otherwise failed to acquiesce to, the automatic transfer of their employment to the applicable Party or a member of its Group by operation of applicable Law, in cases where such employee is subject to automatic transfer by operation of applicable Law, (y) validly refused to Consent to, refused to accept the offer to, refused to execute a tripartite agreement or otherwise failed to acquiesce to, become an employee of the applicable Party or member of its Group, or (z) validly objected to, opted out of, refused to Consent to, or otherwise failed to acquiesce to, changes in his or her compensation or employee benefits by validly resigning or terminating his or her employment with, validly withdrawing his or her Consent to employment with, or validly rejecting his or her transfer to, the applicable Party or a member of its Group, in accordance with and to the extent permitted by applicable Law or an applicable Labor Agreement.

“OPEB Plan” means any Benefit Plan that is considered another post-employment benefit plan, including retiree medical and retiree life insurance arrangements. For the avoidance of doubt, OPEB shall not include any Benefit Plan that is a pension or other defined benefit plans, Severance plan or deferred compensation plan.

“Performance Stock Unit” means a performance-based restricted stock unit award originally granted under a RemainCo Equity Plan.

“Person” shall have the meaning ascribed to it in Section 1.1 (Definitions) of the Separation Agreement.

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“Post-ElectronicsCo Share Price” means the 1-day volume weighted average price of ElectronicsCo Common Stock on the New York Stock Exchange, on the trading date immediately following the Distribution Date (or, if none, on the first trading day thereafter).

“Pre-ElectronicsCo Share Price” means the closing per-share price of RemainCo Common Stock on the New York Stock Exchange on the day immediately prior to the Distribution Date (or, if none, on the first trading day thereafter).

“Relevant Jurisdiction” means any jurisdiction in which one or more employees are employed immediately prior to the Effective Time.

“RemainCo Assets” shall have the meaning ascribed to it in Section 1.1 (Definitions) of the Separation Agreement.

“RemainCo Business” shall have the meaning ascribed to it in Section 1.1 (Definitions) of the Separation Agreement.

“RemainCo Benefit Plan” means any Benefit Plan that RemainCo or any member of the RemainCo Group sponsors, maintains, or contributes to that is in place as of the Distribution Date.

“RemainCo Common Stock” shall have the meaning ascribed to it in Section 1.1 (Definitions) of the Separation Agreement.

“RemainCo Employee” means any RemainCo Employee who has been Ring-Fenced to the RemainCo Business, as memorialized in accordance with Section 1.01.

“RemainCo Equity Award” means an equity incentive award to be issued by RemainCo in accordance with Section 1.09.

“RemainCo Equity Plans” means the RemainCo 2020 Equity and Incentive Plan and the RemainCo Omnibus Incentive Plan (in each case, as may be amended from time to time).

“RemainCo Group” shall have the meaning ascribed to it in Section 1.1 (Definitions) of the Separation Agreement.

“RemainCo HR Liabilities” means all HR Liabilities for any RemainCo Employee (including any RemainCo Employee who ceases employment with RemainCo and its Affiliates prior to the Internal Reorganization or the Distribution Date, as applicable), and any HR Liability allocated to RemainCo pursuant to Section 1.15 or otherwise allocated to RemainCo pursuant to this Agreement.

“RemainCo Indemnitees” shall have the meaning ascribed to it in Section 1.1 (Definitions) of the Separation Agreement.

“RemainCo Labor Agreement” means any agreement with any Employee Representative Body that pertains to any RemainCo Employees.

“RemainCo Option” means each RemainCo Equity Award that is a Stock Option.

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“RemainCo Severance Plan” means any RemainCo Benefit Plan that provides Severance, as determined as of the Distribution Date.

“Restricted Stock Unit” means a time-based restricted stock unit award originally granted under a RemainCo Equity Plan.

“Ring-Fence” or “Ring-Fenced” means the selection for alignment of each RemainCo Employee to the RemainCo Business or the Electronics Business, as applicable.

“Severance” means any severance, redundancy or other similar separation benefit.

“Shareholder Method Award” means (i) each RemainCo Equity Award held by a non-employee member of the RemainCo Board and (ii) each RemainCo Equity Award held by executives aligned to EX and EX2 grades, including any Converted PSUs, but excluding any RemainCo Equity Award that is a (x) Performance Share Unit granted in 2025 or (y) RemainCo Option.

“Solicit” means any acts or attempts by any Party (the “Soliciting Party”) to (i) solicit, entice, recruit, or otherwise induce to (x) terminate employment with the then-current employing Party or with a member of such Party’s Group, and/or (y) commence employment with the Soliciting Party or with a member of such Soliciting Party’s Group; or (ii) order, pressure, incentivize, encourage, induce or otherwise cause any other Person to engage in any of the conduct set forth in clause (i) of this definition.

“STD Employee” means any ElectronicsCo Employee who (i) is not able to work because of a serious health condition, and (ii) is receiving (or who has applied for and then receives) short-term disability or income replacement benefits from RemainCo or a member of the RemainCo Group or ElectronicsCo or a member of the ElectronicsCo Group, in the United States.

“Stock Appreciation Right” means a right to receive a cash payment equal in value to the excess of the fair market value of the common stock on the date of exercise over the exercise price per share established in connection with the grant of the stock appreciation right originally granted under a RemainCo Equity Plan.

“Stock Option” means an option to acquire common stock originally granted under a RemainCo Equity Plan; provided, that, “Stock Option” shall not include any option denominated in shares of common stock of Corteva, Inc. or Dow Inc.

“Subsidiary” shall have the meaning ascribed to it in Section 1.1 (Definitions) of the Separation Agreement.

“Tax” shall have the meaning ascribed to it in Section 1.1 (Definitions) of the Separation Agreement.

“Tax Contest” shall have the meaning ascribed to it in Section 1.1 (Definitions) of the Separation Agreement.

“Tax Matters Agreement” shall have the meaning ascribed to it in Section 1.1 (Definitions) of the Separation Agreement.

“Tax Return” shall have the meaning ascribed to it in Section 1.1 (Definitions) of the Separation Agreement.

“Taxing Authority” shall have the meaning ascribed to it in Section 1.1 (Definitions) of the Separation Agreement.

“Transfer” shall have the meaning ascribed to it in Section 1.1 (Definitions) of the Separation Agreement.

“U.S. Impacted Employees” means each Impacted Employee whose primary work location country, immediately prior to the Distribution Date, is the United States.

Section 3.02 Other Defined Terms in this Agreement. The following terms have the meanings set forth in the sections of this Agreement set forth below:

| <u>Definition</u>                               | <u>Location in Agreement</u> |
|-------------------------------------------------|------------------------------|
| Adjusted ElectronicsCo Shareholder Method Award | Section 1.09(a)              |
| Adjusted RemainCo Shareholder Method Award      | Section 1.09(a)              |
| Adjusted ElectronicsCo RSU                      | Section 1.09(b)              |
| Adjusted ElectronicsCo Option/SAR               | Section 1.09(c)              |
| Agreement                                       | Preamble                     |
| Board                                           | Recitals                     |
| Delayed Employment Date                         | Section 1.02(b)              |
| Delayed Employment Employee                     | Section 1.02(b)              |
| ElectronicsCo                                   | Preamble                     |
| ElectronicsCo 401(k) Participant                | Section 2.01                 |
| ElectronicsCo 401(k) Plan                       | Section 2.01                 |
| ElectronicsCo Assumed Vacation Liabilities      | Section 1.06                 |
| ElectronicsCo Group U.S. Welfare Plans          | Section 2.02(a)              |
| ElectronicsCo NQ Participant                    | Section 2.03(a)              |
| ElectronicsCo Stock Plan                        | Section 1.09(f)(i)           |
| Group U.S. Welfare Plans Section                | 2.02(a)                      |
| Employee Records                                | Section 1.14                 |
| LTD Employees                                   | Section 1.04(d)              |
| Other Post-Employment Benefits                  | Section 1.10                 |
| Parties                                         | Preamble                     |
| Party                                           | Preamble                     |
| Plan Account                                    | Section 2.03(b)              |
| RemainCo                                        | Preamble                     |
| RemainCo 401(k) Plan                            | Section 2.01                 |
| RemainCo Group U.S. Welfare Plans               | Section 2.02(a)              |
| Ring-Fence Error                                | Section 1.01(b)              |
| Separation Agreement                            | Recitals                     |

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## ARTICLE IV

### **GENERAL PROVISIONS**

Section 4.01 General. Subject to the terms and conditions of this Agreement, each of the Parties shall, and shall cause the other members of its Group to, cooperate with each other and use commercially reasonable efforts, on and after the Effective Time, to take, or to cause to be taken, all actions, and to do, or to cause to be done, all things reasonably necessary on their respective parts under applicable Law or contractual obligations to consummate and make effective the transactions contemplated by this Agreement.

Section 4.02 Limitation of Liability. No Party shall have any Liability to any other Party in the event that any information exchanged or provided pursuant to this Agreement which is an estimate or forecast, or which is based on an estimate or forecast, is found to be inaccurate.

Section 4.03 Transfers Not Effected on or Prior to the Effective Time; Transfers Deemed Effective as of the Effective Time.

(a) Except as otherwise set forth herein, to the extent that any Transfers or Assumptions contemplated by this Agreement shall not have been consummated at or prior to the Effective Time, the Parties shall use commercially reasonable efforts to effect such Transfers or Assumptions as promptly following the Effective Time as practicable. Nothing herein shall be deemed to require or constitute the Transfer of any Assets or the Assumption of any Liabilities which by their terms or operation of Law cannot be transferred; provided, however, that the Parties and their respective Subsidiaries shall cooperate and use commercially reasonable efforts to seek to obtain, in accordance with applicable Law, any necessary Consents for the Transfer of all Assets and Assumption of all Liabilities contemplated hereby to the fullest extent permitted by applicable Law.

(b) If and when the Consents and/or conditions, the absence or non-satisfaction of which caused the deferral of Transfer of any Asset or deferral of the Assumption of any Liability pursuant to this Agreement, are obtained or satisfied, the Transfer, assignment, Assumption or novation of the applicable Asset or Liability shall be effected without further consideration in accordance with and subject to the terms of this Agreement and shall, to the extent possible without the imposition of any undue cost on any Party, be deemed to have become effective as of the Effective Time.

(c) The Party (or relevant member of its Group) retaining any Asset or Liability due to the deferral of the Transfer of such Asset or the deferral of the Assumption of such Liability pursuant to this Agreement shall (i) not be obligated, in connection with the foregoing, to expend any money unless the necessary funds are advanced, assumed, or agreed in advance to be reimbursed by the Party (or relevant member of its Group) entitled to such Asset or the Person intended to be subject to such Liability, other than reasonable attorneys' fees and recording or similar or other incidental fees, all of which shall be promptly reimbursed by the Party (or relevant member of its Group) entitled to such Asset or the Person intended to be subject to such Liability;

and (ii) be indemnified for all Indemnifiable Losses or other Liabilities arising out of any actions (or omissions to act) of such retaining Party taken at the direction of the other Party (or relevant member of its Group) in connection with and relating to such retained Asset or Liability, as the case may be. Except as otherwise expressly provided herein, none of RemainCo or ElectronicsCo or any of their respective Affiliates shall be required to commence any litigation or offer or pay any money or otherwise grant any accommodation (financial or otherwise) to any third party with respect to any Assets or Liabilities not Transferred as of the Effective Time; provided, however, that any Party to which such Asset or Liability has not been Transferred or Assumed, respectively, due to the deferral of the Transfer of such Asset or the deferral of the Assumption of such Liability may request that the Party retaining such Asset or Liability commence litigation, which request shall be considered in good faith by the Party retaining such Asset or Liability; provided, further, that a Party's good faith determination not to commence litigation shall not in and of itself constitute a breach of this Section 4.03, but the foregoing shall not preclude consideration of a Party's good faith for purposes of determining compliance with this Section 4.03.

(d) Notwithstanding anything else set forth in this Section 4.03 to the contrary, none of RemainCo or ElectronicsCo, nor any of their Subsidiaries, shall be required by this Section 4.03 to take any action that may, in the good faith judgment of such Person, (x) result in a violation of any obligation which any such Person has to any third party; or (y) violate applicable Law.

(e) The failure to obtain a Consent shall not in and of itself constitute a breach of this Agreement; provided, that, the foregoing shall not preclude consideration of a Party's efforts in pursuing such Consent for purposes of determining compliance with this Section 4.03.

(f) To the extent permitted by applicable Law, with respect to Assets and Liabilities described in Section 4.03(a), each of ElectronicsCo and RemainCo shall, and shall cause the members of its respective Group to, (i) treat for all Tax purposes (A) the deferred Assets as assets having been Transferred to and owned by the Party entitled to such Assets not later than the Distribution Date; and (B) the deferred Liabilities as liabilities having been Assumed and owned by the Person intended to be subject to such Liabilities not later than the Distribution Date; and (ii) neither report nor take any Tax position (on a Tax Return or otherwise) inconsistent with such treatment (unless required by a change in applicable Tax Law or good faith resolution of a Tax Contest).

Section 4.04 Wrong Pockets. Subject to Section 4.03, Section 2.6 (Wrong Pockets; Mail & Other Communications) of the Separation Agreement shall apply *mutatis mutandis* to this Agreement as if such provisions had been set out expressly in this Agreement.

Section 4.05 Novation of Liabilities. Section 2.9 (Novation of Liabilities) of the Separation Agreement shall apply *mutatis mutandis* to this Agreement as if such provisions had been set out expressly in this Agreement.

Section 4.06 Negotiation and Arbitration. In the event of a controversy, dispute or Action between the Parties arising out of, in connection with, or in relation to this Agreement or any of the transactions contemplated hereby or thereby, the following sections of the Separation Agreement shall apply *mutatis mutandis* to this Agreement as if such provisions had been set out expressly in this Agreement: Section 10.1 (Negotiation and Arbitration) and Section 10.2 (Continuity of Service and Performance).

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Section 4.07 Insurance. Subject to Section 2.04, Article XI of the Separation Agreement (Insurance) shall apply *mutatis mutandis* to this Agreement as if such provisions had been set out expressly in this Agreement.

Section 4.08 Miscellaneous.

(a) *Complete Agreement; Construction*. This Agreement, including the Exhibits and Schedules, the Separation Agreement, the Ancillary Agreements, and, solely to the extent and for the limited purpose of effecting the Internal Reorganization, the Conveyancing and Assumption Instruments shall constitute the entire agreement between the Parties with respect to the subject matter hereof and shall supersede all previous negotiations, commitments, course of dealings and writings with respect to such subject matter. In the event of any inconsistency between this Agreement and any Exhibit or Schedule hereto, the Exhibit or Schedule shall prevail. In the event and to the extent that there shall be a conflict between the provisions of (i) this Agreement and the Separation Agreement, the Separation Agreement shall control; (ii) this Agreement and any Conveyancing and Assumption Instrument, this Agreement shall control; and (iii) this Agreement and any agreement which is not another Ancillary Agreement (other than a Conveyancing and Assumption Instrument), this Agreement shall control unless both (x) it is specifically stated in such agreement that such agreement controls and (y) such agreement has been executed by a member of the Group that it is to be enforced against. Except as expressly set forth in the Separation Agreement, this Agreement or any other Ancillary Agreement, (i) all matters relating to Taxes and Tax Returns of the Parties and their respective Subsidiaries shall be governed exclusively by the Tax Matters Agreement, and (ii) for the avoidance of doubt, in the event of any conflict between this Agreement or any Ancillary Agreement, on the one hand, and the Tax Matters Agreement, on the other hand, with respect to such matters, the terms and conditions of the Tax Matters Agreement shall govern.

(b) *Ancillary Agreements*. Except as expressly set forth herein, this Agreement is not intended to address, and should not be interpreted to address, the matters specifically and expressly covered by any other Ancillary Agreements.

(c) *Counterparts*. This Agreement may be executed and delivered (including by facsimile or other means of electronic transmission, such as by electronic mail in "pdf" form) in more than one counterpart, all of which shall be considered one and the same agreement, each of which when executed shall be deemed to be an original, and shall become effective when one or more such counterparts have been signed by each of the Parties and delivered to each of the Parties.

(d) *Survival of Agreements*. Except as otherwise contemplated by this Agreement, the Separation Agreement or any other Ancillary Agreement, all covenants and agreements of the Parties contained in this Agreement, the Separation Agreement and each Ancillary Agreement shall survive the Effective Time and remain in full force and effect in accordance with their applicable terms.



(e) *Expenses*. Except as otherwise provided in this Agreement, the Separation Agreement, including Section 2.12 (Payment of Specified Transaction Expenses), or any Ancillary Agreement, RemainCo shall be liable for costs and expenses incurred, by members of the RemainCo Group or the ElectronicsCo Group prior to the Distribution and directly related to the consummation of the transactions contemplated hereby (including the financing transactions contemplated hereby), including third party professional fees (e.g., outside legal and accounting fees) and other fees and expenses incurred in connection with the preparation, execution and delivery and implementation of this Agreement, costs and expenses relating to the Distribution Disclosure Documents and the Distribution (including, printing, mailing and filing fees), costs and expenses incurred with the listing of ElectronicsCo's common stock on a stock exchange in connection with the Distribution, and costs and expenses incurred in connection with the Internal Reorganization (collectively, "Transaction Expenses"); provided, however, in the event of any inconsistency between Section 12.5 (Expenses) of the Separation Agreement, on the one hand, and clauses (iv), (xv) and (xvii)(b) of the definition of ElectronicsCo Liabilities and clauses (iv), (xv) and (xvi) (b) of the definition of RemainCo Liabilities, on the other hand, clauses (iv) and (xvii)(b) of the definition of ElectronicsCo Liabilities and clauses (iv) and (xvi)(b) of the definition of RemainCo Liabilities shall control.

(f) *Notices*. Notices, requests, instructions or other documents to be given under this Agreement shall be in writing and shall be deemed to have been properly delivered, given and received, (a) on the date of transmission if sent via email (provided, however, that notice given by email shall not be effective unless either (i) a duplicate copy of such email notice is promptly given by one of the other methods described in this Section 4.08(f) or (ii) the receiving party delivers a written confirmation of receipt of such notice either by email or any other method described in this Section 4.08(f) (excluding "out of office" or other automated replies)), (b) when delivered, if delivered personally to the intended recipient, and (c) one (1) Business Day later, if sent by overnight delivery via a national courier service (providing proof of delivery), and in each case, addressed to a Party at the address for such Party set forth on a schedule to be delivered by each Party to the address set forth below (or at such other address for a Party as shall be specified in a notice given in accordance with this Section 4.08(f)):

To RemainCo:

DuPont de Nemours, Inc.  
974 Centre Road, Building 730  
Wilmington, DE 19805  
Attention: Erik T. Hoover  
Email: [•]

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

Skadden, Arps, Slate, Meagher & Flom LLP  
One Manhattan West  
New York, NY 10001  
Attention: Brandon Van Dyke, Esq.  
Kyle J. Hatton, Esq.  
Jonathan M. Lee, Esq.  
Email: Brandon.VanDyke@skadden.com  
Kyle.Hatton@skadden.com  
Jonathan.Lee@skadden.com

To ElectronicsCo:

Qnity Electronics, Inc.  
974 Centre Road, Building 735  
Wilmington, Delaware 19805  
Attention: Peter W. Hennessey  
Email: [•]

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

Skadden, Arps, Slate, Meagher & Flom LLP  
One Manhattan West  
New York, NY 10001  
Attention: Brandon Van Dyke, Esq.  
Kyle J. Hatton, Esq.  
Jonathan M. Lee, Esq.  
Email: Brandon.VanDyke@skadden.com  
Kyle.Hatton@skadden.com  
Jonathan.Lee@skadden.com

(g) *Waivers*. Any provision of this Agreement may be waived, if and only if, such waiver is in writing and signed by the Party against whom the waiver is to be effective. Notwithstanding the foregoing, no failure to exercise and no delay in exercising, on the part of any Party, any right, remedy, power or privilege hereunder shall operate as a waiver hereof; nor shall any single or partial exercise of any right, remedy, power or privilege hereunder preclude any other or further exercise thereof or the exercise of any other right, remedy, power or privilege. Any Consent required or permitted to be given by any Party to the other Party under this Agreement shall be in writing and signed by the Party giving such Consent and shall be effective only against such Party (and the members of its Group).

(h) *Amendments*. Subject to the terms of Section 4.08(k) and Section 12.11 (Certain Termination and Amendment Rights) of the Separation Agreement, this Agreement may not be modified or amended except by an agreement in writing signed by each of the Parties.

(i) *Assignment*. Except as otherwise provided for in this Agreement, neither this Agreement nor any right, interest or obligation shall be assignable, in whole or in part, directly or indirectly, by any Party without the prior written consent of the other Party (not to be unreasonably withheld, conditioned or delayed), and any attempt to assign any rights, interests or obligations arising under this Agreement without such consent shall be void; except, that a Party may assign this Agreement or any or all of the rights, interests and obligations hereunder in connection with a merger, reorganization or consolidation transaction in which such Party is a constituent party but not the surviving entity or the sale by such Party of all or substantially all of its Assets; provided, that, the surviving entity of such merger, reorganization or consolidation transaction or the transferee of such Assets shall assume all the obligations of the relevant Party by operation of law or pursuant to an agreement in writing, reasonably satisfactory to the other Party, to be bound by the terms of this Agreement as if named as a "Party" hereto; provided, however, that in the case of each of the preceding clauses, no assignment permitted by this Section 4.08(i) shall release the assigning Party from Liability for the full performance of its obligations under this Agreement, unless agreed to in writing by the non-assigning Parties.

(j) *Successors and Assigns*. The provisions of this Agreement and the obligations and rights hereunder shall be binding upon, inure to the benefit of and be enforceable by (and against) the Parties and their respective successors and permitted transferees and assigns.

(k) *Certain Termination and Amendment Rights*. This Agreement may be terminated at any time prior to the Distribution Date by and in the sole discretion of the Board without the approval of ElectronicsCo or the stockholders of RemainCo and, in the event of such termination, no Party shall have any liability of any kind to the other Party or any other Person. The Distribution may be amended, modified or abandoned at any time prior to the Distribution Date by and in the sole discretion of the Board without the approval of ElectronicsCo or the stockholders of RemainCo. After the Distribution Date, this Agreement may not be terminated or amended except by an agreement in writing signed by each of the Parties. Notwithstanding the foregoing, Section 1.16 of this Agreement and Article VIII (Indemnification), Section 11.3 (Fiduciary Liability Insurance), or Section 11.4 (Directors and Officers Indemnification and Insurance) of the Separation Agreement (as incorporated pursuant to Section 4.07) shall not be terminated or amended after the Effective Time in a manner adverse to the third-party beneficiaries thereof without the Consent of any such Person.

(l) *Payment Terms*.

(a) Except as set forth in Section 1.16, Article VIII (Indemnification) of the Separation Agreement or as otherwise expressly provided to the contrary in this Agreement, any amount to be paid or reimbursed by a Party (and/or a member of such other Party's Group), on the one hand, to the other Party (and/or a member of such Party's respective Group), on the other hand, under this Agreement shall be paid or reimbursed hereunder within thirty (30) days after presentation of an invoice or a written demand therefor and setting forth, or accompanied by, reasonable documentation or other reasonable explanation supporting such amount.

(b) Except as set forth in Section 1.16, Article VIII (Indemnification) of the Separation Agreement or as expressly provided to the contrary in this Agreement, any amount not paid when due pursuant to this Agreement (and any amount billed or otherwise invoiced or demanded and properly payable that is not paid within thirty (30) days of such bill, invoice or other demand) shall bear interest at a rate per annum equal to SOFR (in effect on the date on which such payment was due) plus 3% calculated for the actual number of days elapsed, accrued from the date on which such payment was due up to the date of the actual receipt of payment; provided, however, in the event that SOFR is no longer commonly accepted by market participants, then an alternative floating rate index that is commonly accepted by market participants, which ElectronicsCo and RemainCo shall jointly determine, each acting in good faith.

(c) In the event of a dispute or disagreement with respect to all or a portion of any amounts requested by any Party (and/or a member of such Party's Group) as being payable, the payor Party shall in no event be entitled to withhold payments for any such amounts (and any such disputed amounts shall be paid in accordance with Section 12.12(a) of the Separation Agreement (Payment Terms), subject to the right of the payor Party to dispute such amount following such payment); provided, that, in the event that following the resolution of such dispute it is determined that the payee Party (and/or a member of the payee Party's Group) was not entitled to all or a portion of the payment made by the payor Party, the payee Party shall repay (or cause to be repaid) such amounts to which it was not entitled, including interest, to the payor Party (or its designee), which amounts shall bear interest at a rate per annum equal to SOFR plus 3%, calculated for the actual number of days elapsed, accrued from the date on which such payment was made by the payor Party to the payee Party.

(d) Without the Consent of the Party receiving any payment under this Agreement specifying otherwise, all payments to be made by ElectronicsCo or RemainCo under this Agreement shall be made in U.S. dollars. Except as expressly provided herein, any amount which is not expressed in U.S. dollars shall be converted into U.S. dollars by using the Bloomberg fixing rate at 5:00 p.m. New York City Time on the day before the date the payment is required to be made or, as applicable, on which an invoice is submitted (provided, however, that with regard to any payments in respect of Indemnifiable Losses for payments made to third parties, the date shall be the day before the relevant payment was made to the third party) or in the Wall Street Journal on such date if not so published on Bloomberg. Except as expressly provided herein, in the event that any indemnification payment required to be made hereunder may be denominated in a currency other than U.S. dollars, the amount of such payment shall be converted into U.S. dollars on the date in which notice of the claim is given to the Indemnifying Party.

(m) *No Circumvention.* The Parties agree not to directly or indirectly take any actions, act in concert with any Person who takes an action, or cause or allow any member of any such Party's Group to take any actions (including the failure to take a reasonable action) such that the resulting effect is to materially undermine the effectiveness of any of the provisions of this Agreement (including adversely affecting the rights or ability of any Party to successfully pursue indemnification or payment pursuant to Section 1.16 and Article VII (Legacy Liabilities) and VIII (Indemnification) of the Separation Agreement).

(n) *Subsidiaries.* Each of the Parties shall cause to be performed, and hereby guarantees the performance of, all actions, agreements and obligations set forth herein to be performed by any Subsidiary of such Party or by any entity that becomes a Subsidiary of such Party on and after the Distribution Date.

(o) *Third-Party Beneficiaries.* Except (i) as provided in Section 1.16 relating to Indemnitees, Article VIII (Indemnification) of the Separation Agreement relating to Indemnitees and for the release under Section 8.1 (Release of Pre-Distribution Claims) of the Separation Agreement (as incorporated pursuant to Section 1.16(c) hereof) of any Person provided therein; (ii) as provided in Section 11.3 (Fiduciary Liability Insurance) of the Separation Agreement, relating to insured persons and Section 11.4 (Directors and Officers Indemnification and Insurance) relating to the directors, officers, employees, fiduciaries or agents provided therein (in each case as incorporated pursuant to Section 4.07 hereof); (iii) as provided in Section 9.8 (Conflicts Waiver) of the Separation Agreement relating to RemainCo Counsel; (iv) as provided in that certain letter agreement, dated as of November 1, 2025, by and among RemainCo, ElectronicsCo and Corteva, and (v) as specifically provided in this Agreement, this Agreement is solely for the benefit of, and is only enforceable by, the Parties and their permitted successors and assigns and should not be deemed to confer upon third parties any remedy, benefit, claim, liability, reimbursement, claim of Action or other right of any nature whatsoever, including any rights of employment for any specified period, in excess of those existing without reference to this Agreement. For the avoidance of doubt, no term or provision of this Agreement (including any agreement or covenant to Assume or cause other members of any Group to Assume any Liabilities) shall create or otherwise give rise to any third-party beneficiary right or be deemed to confer upon any third parties any remedy, benefit, claim, liability, reimbursement, claim of Action or other right of any nature whatsoever to enforce, whether directly or derivatively, (i) any of the RemainCo Liabilities against any member of the RemainCo Group or ElectronicsCo Group or (ii) any of the ElectronicsCo Liabilities against any member of the ElectronicsCo Group or RemainCo Group, or any other right, in each case other than as expressly set forth in the immediately preceding sentence.

(p) *Title and Headings.* Titles and headings to sections herein are inserted for the convenience of reference only and are not intended to be a part of or to affect the meaning or interpretation of this Agreement.

(q) *Exhibits and Schedules.* The Exhibits and Schedules shall be construed with and as an integral part of this Agreement to the same extent as if the same had been set forth verbatim herein. Nothing in the Exhibits or Schedules constitutes an admission of any Liability or obligation of any member of the RemainCo Group or the ElectronicsCo Group or any of their respective Affiliates to any third party, nor, with respect to any third party, an admission against the interests of any member of the RemainCo Group or the ElectronicsCo Group or any of their respective Affiliates. The inclusion of any item or Liability or category of item or Liability on any Exhibit or Schedule is made solely for purposes of allocating potential Liabilities among the Parties and shall not be deemed as or construed to be an admission that any such Liability exists.

(r) *References; Interpretation.* For the purposes of this Agreement, (i) words in the singular shall be held to include the plural and vice versa, and words of one gender shall be held to include the other gender as the context requires; (ii) references to the terms Article, Section, paragraph, clause, Exhibit and Schedule are references to the Articles, Sections, paragraphs, clauses, Exhibits and Schedules to this Agreement unless otherwise specified; (iii) the terms “hereof,” “herein,” “hereby,” “hereto,” and derivative or similar words refer to this entire Agreement, including the Schedules and Exhibits hereto; (iv) references to “\$” shall mean U.S. dollars; (v) the word “including” and words of similar import when used in this Agreement shall

mean “including, without limitation,” unless otherwise specified; (vi) the word “or” shall not be exclusive; (vii) references to “written” or “in writing” include in electronic form; (viii) the Parties have each participated in the negotiation and drafting of this Agreement, except as otherwise stated herein, if an ambiguity or question of interpretation should arise, this Agreement shall be construed as if drafted jointly by the Parties and no presumption or burden of proof shall arise favoring or burdening any Party by virtue of the authorship of any of the provisions in this Agreement; (ix) a reference to any Person includes such Person’s successors and permitted assigns; (x) any reference to “days” means calendar days unless Business Days are expressly specified; (xi) when calculating the period of time before which, within which or following which any act is to be done or step taken pursuant to this Agreement, the date that is the reference date in calculating such period shall be excluded and if the last day of such period is not a Business Day, the period shall end on the next succeeding Business Day; (xii) any statute defined or referred to herein means such statute as from time to time amended, modified or supplemented, unless otherwise specifically indicated; (xiii) the use of the phrases “the date of this Agreement,” “the date hereof,” “of even date herewith” and terms of similar import shall be deemed to refer to the date set forth in the preamble to this Agreement; (xiv) the phrase “ordinary course of business” shall be deemed to be followed by the words “consistent with past practice” whether or not such words actually follow such phrase; (xv) where a word or phrase is defined herein, each of its other grammatical forms shall have a corresponding meaning; and (xvi) any Consent given by any Party hereto pursuant to this Agreement shall be valid only if contained in a written instrument signed by such Party. Unless the context requires otherwise, references in this Agreement to “RemainCo” shall also be deemed to refer to the applicable member of the RemainCo Group, references to “ElectronicsCo” shall also be deemed to refer to the applicable member of the ElectronicsCo Group and, in connection therewith, any references to actions or omissions to be taken, or refrained from being taken, as the case may be, by RemainCo or ElectronicsCo shall be deemed to require RemainCo or ElectronicsCo, as the case may be, to cause the applicable members of the RemainCo Group or the ElectronicsCo Group, respectively, to take, or refrain from taking, any such action.

(s) *Governing Law.* This Agreement and any dispute arising out of, in connection with or relating to this Agreement shall be governed by and construed in accordance with the Laws of the State of Delaware, without giving effect to the conflicts of laws principles thereof.

(t) *Specific Performance.* The Parties acknowledge and agree that irreparable harm would occur in the event that the Parties do not perform any provision of this Agreement in accordance with its specific terms or otherwise breach this Agreement and the remedies at law for any breach or threatened breach of this Agreement, including monetary damages, are inadequate compensation for any Indemnifiable Loss. Accordingly, from and after the Effective Time, in the event of any actual or threatened default in, or breach of, any of the terms, conditions and provisions of this Agreement, the Parties agree that the Parties to this Agreement who are or are to be thereby aggrieved shall, subject and pursuant to the terms of this Section 4.08 (including for the avoidance of doubt, after compliance with all notice and negotiation provisions herein), have the right to specific performance and injunctive or other equitable relief of its or their rights under this Agreement, in addition to any and all other rights and remedies at law or in equity, and all such rights and remedies shall be cumulative. The Parties agree that any defense in any action for specific performance that a remedy at law would be adequate is hereby waived, and that any requirements for the securing or posting of any bond with such remedy are hereby waived.

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(u) *Severability*. If any term, provision, covenant or restriction of this Agreement is held by a court of competent jurisdiction or other authority to be invalid, illegal, void or unenforceable, the remainder of the terms, provisions, covenants and restrictions of this Agreement shall remain in full force and effect and shall in no way be affected, impaired or invalidated so long as the economic or legal substance of the transactions contemplated hereby is not affected in any manner materially adverse to any Party. Upon a determination that any term, provision, covenant or restriction is invalid, illegal, void or unenforceable, the Parties shall negotiate in good faith to modify to the fullest extent permitted by applicable Law this Agreement so as to effect the original intent of the Parties as closely as possible in a mutually acceptable manner in order that the transactions contemplated hereby be consummated as originally contemplated to the fullest extent possible.

(v) *No Duplication; No Double Recovery*. Nothing in this Agreement is intended to confer to or impose upon any Party a duplicative right, entitlement, obligation or recovery with respect to any matter arising out of the same facts and circumstances (including with respect to the rights, entitlements, obligations and recoveries that may arise out of one or more of the following Sections of the Separation Agreement: Section 7.3 (Access to Information; Certain Services: Expenses), Section 8.2 (Indemnification by RemainCo), Section 8.3 (Indemnification by ElectronicsCo) and Section 8.4 (Procedures for Third Party Claims)).

(w) *Public Announcements*. From and after the Effective Time, RemainCo and ElectronicsCo hereby agree to (i) coordinate with the other Party on the Parties' respective initial press releases with respect to the transactions contemplated herein and (ii) that no press release or similar public announcement or external communication shall, if prior to, or after, the Effective Time, be made or be caused to be made (including by such Party's Affiliates) concerning the execution or performance of this Agreement until such Party has consulted with the other Party, and provided meaningful opportunity for review and given due consideration to reasonable comment by the other Party, except (x) as may be required by applicable Law, court process or by obligations pursuant to any listing agreement with any national securities exchange or national securities quotation system; (y) for disclosures made that are substantially consistent with disclosure contained in any Distribution Disclosure Document; and (z) as may pertain to disputes between one Party or any member of its Group, on the one hand, and the other Party or any member of its Group, on the other hand; provided that in the case of clause (z), any Party that intends to issue a press release or similar public announcement or external communication regarding such dispute shall provide reasonable advance written notice to the other Party in accordance with Section 12.6 (Notices) of the Separation Agreement, which notice shall include a copy of the press release or similar public announcement or external communication, or where no such copy is available, a description of the press release or similar public announcement or external communication.

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(x) *Tax Treatment of Payments.* To the extent permitted by applicable Law, unless otherwise required by a Final Determination, the Separation Agreement, the Tax Matters Agreement or this Agreement or otherwise agreed to among the Parties, for U.S. federal Tax purposes, any payment made pursuant to this Agreement shall be treated as follows:

(i) to the extent the member or assets of the payor Group and the member or assets of the payee Group to which the liability for payment relates were separated in a tax-free contribution or tax-free distribution for U.S. federal Tax purposes, such payment shall be treated as a tax-free contribution or tax-free distribution, as applicable, with respect to the stock of the applicable member of the payee Group or payor Group, occurring immediately prior to the relevant transaction in the Internal Reorganization or the ElectronicsCo Spin Contribution, as applicable;

(ii) to the extent the member or assets of the payor Group and the member or assets of the payee Group to which the liability for payment relates were separated in a taxable transaction for U.S. federal Tax purposes, such payment shall be treated as an adjustment to the price or amount, as applicable, of the relevant transaction in the Internal Reorganization or the ElectronicsCo Spin Contribution, as applicable; and

(iii) payments of interest shall be treated as deductible by the Indemnifying Party or its relevant Subsidiary and as income to the Indemnitee or its relevant Subsidiary, as applicable.

In the case of each of the foregoing, no Party shall take any position inconsistent with such treatment. In the event that a Taxing Authority asserts that a Party's treatment of a payment pursuant to this Agreement should be other than as set forth in this Section 4.08(x), such Party shall use its commercially reasonable efforts to contest such challenge.

[SIGNATURE PAGE FOLLOWS]



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IN WITNESS WHEREOF, each of the Parties has caused this Agreement to be executed as of the date first written above by its respective officers thereunto duly authorized.

**DUPONT DE NEMOURS, INC.**

By: /s/ Erik T. Hoover

Name: Erik T. Hoover

Title: Senior Vice President and General Counsel

**QNTY ELECTRONICS, INC.**

By: /s/ Jon D. Kemp

Name: Jon D. Kemp

Title: Chief Executive Officer

[SIGNATURE PAGE TO EMPLOYEE MATTERS AGREEMENT]

**TRANSITION SERVICES AGREEMENT**

by and between

**DUPONT SPECIALTY PRODUCTS USA, LLC**

and

**EKC ADVANCED ELECTRONICS USA, LLC**

Dated as of November 1, 2025

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## TABLE OF CONTENTS

|                                                    | <b>Page</b> |
|----------------------------------------------------|-------------|
| <b>ARTICLE I DEFINITIONS</b>                       | <b>1</b>    |
| 1.1 Definitions                                    | 1           |
| 1.2 References; Interpretation                     | 9           |
| <b>ARTICLE II SERVICES PROVIDED</b>                | <b>10</b>   |
| 2.1 Transitional Services                          | 10          |
| 2.2 Personnel, Resources and Third Parties         | 12          |
| 2.3 Term of Service                                | 13          |
| 2.4 Migration from Services                        | 13          |
| 2.5 Limitations and Exclusions                     | 14          |
| 2.6 Recipient Obligations                          | 14          |
| 2.7 Consents                                       | 15          |
| <b>ARTICLE III INFORMATION SYSTEMS AND SUPPORT</b> | <b>15</b>   |
| 3.1 Software and Database Access                   | 15          |
| 3.2 Recipient's Limited Use Rights                 | 15          |
| 3.3 Relocation                                     | 16          |
| 3.4 Security                                       | 16          |
| 3.5 Data and Network Restrictions                  | 16          |
| 3.6 Exclusions                                     | 16          |
| 3.7 Recipient Obligations                          | 17          |
| <b>ARTICLE IV COMPENSATION</b>                     | <b>19</b>   |
| 4.1 Consideration                                  | 19          |
| 4.2 Taxes                                          | 19          |
| 4.3 Invoices                                       | 20          |
| 4.4 Payment                                        | 20          |
| 4.5 No Offset                                      | 21          |
| <b>ARTICLE V TERMINATION</b>                       | <b>21</b>   |
| 5.1 Default                                        | 21          |
| 5.2 Insolvency Event                               | 21          |
| 5.3 Voluntary Termination                          | 21          |
| 5.4 Effect of Termination                          | 22          |
| 5.5 Survival of Payment Obligations                | 22          |
| 5.6 Records                                        | 22          |
| 5.7 Settlement of Accounts                         | 22          |

---

|                                                                        |           |
|------------------------------------------------------------------------|-----------|
| <b>ARTICLE VI LIMITATION OF LIABILITY AND DISCLAIMER OF WARRANTIES</b> | <b>23</b> |
| 6.1 Liability                                                          | 23        |
| 6.2 Limitation of Losses                                               | 23        |
| 6.3 Limited Liability Exclusions                                       | 23        |
| 6.4 Third Party Service Providers                                      | 23        |
| 6.5 Mitigation                                                         | 24        |
| 6.6 DISCLAIMER OF WARRANTIES                                           | 24        |
| <b>ARTICLE VII INDEMNIFICATION</b>                                     | <b>24</b> |
| 7.1 Indemnification                                                    | 24        |
| 7.2 Indemnification Procedures                                         | 25        |
| <b>ARTICLE VIII GOVERNANCE</b>                                         | <b>26</b> |
| 8.1 Contract Managers                                                  | 26        |
| 8.2 Service Coordinators                                               | 26        |
| <b>ARTICLE IX INTELLECTUAL PROPERTY; CONFIDENTIALITY</b>               | <b>27</b> |
| 9.1 Intellectual Property Ownership                                    | 27        |
| 9.2 Intellectual Property Licenses                                     | 27        |
| 9.3 Confidentiality                                                    | 28        |
| <b>ARTICLE X FORCE MAJEURE</b>                                         | <b>28</b> |
| 10.1 Occurrence of Force Majeure                                       | 28        |
| <b>ARTICLE XI MISCELLANEOUS</b>                                        | <b>29</b> |
| 11.1 Entire Agreement                                                  | 29        |
| 11.2 Successors and Assignment                                         | 29        |
| 11.3 Amendments and Waivers                                            | 30        |
| 11.4 No Third Party Beneficiaries                                      | 30        |
| 11.5 Notices                                                           | 30        |
| 11.6 Governing Law; Dispute Resolution                                 | 31        |
| 11.7 Specific Performance                                              | 32        |
| 11.8 Severability                                                      | 32        |
| 11.9 Counterparts                                                      | 32        |
| 11.10 Expenses                                                         | 32        |
| 11.11 Parties in Interest                                              | 33        |
| 11.12 Relationship of the Parties                                      | 33        |
| 11.13 Conflict                                                         | 33        |
| 11.14 Survival                                                         | 33        |
| 11.15 Supply of Services                                               | 33        |
| 11.16 Further Assurances                                               | 33        |
| 11.17 Compliance with Laws                                             | 34        |
| 11.18 No Recourse                                                      | 34        |
| 11.19 Title and Headings                                               | 34        |

---

EXHIBITS

|                  |                                    |
|------------------|------------------------------------|
| <u>Exhibit A</u> | Services                           |
| <u>Exhibit B</u> | Service Level Agreements           |
| <u>Exhibit C</u> | Intentionally Omitted Services     |
| <u>Exhibit D</u> | DuPont Electronic Access Agreement |
| <u>Exhibit E</u> | Data Transfer Agreement            |
| <u>Exhibit F</u> | Invoice Dispute Resolution         |
| <u>Exhibit G</u> | Dispute Resolution                 |
| <u>Exhibit H</u> | Migration Plan                     |

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## TRANSITION SERVICES AGREEMENT

THIS TRANSITION SERVICES AGREEMENT (this “Agreement”) is entered into and made effective as of November 1, 2025 (the “Effective Date”), by and between DuPont Specialty Products USA, LLC, a Delaware limited liability company (“Provider”), each other undersigned Provider Affiliate (as hereinafter defined), on the one hand, EKC Advanced Electronics USA, LLC, a Delaware limited liability company (“Recipient”), and each other undersigned Recipient Affiliate (as hereinafter defined), on the other hand. Provider, each Provider Affiliate, Recipient and each Recipient Affiliate are at times referred to herein individually as a “Party,” and collectively as the “Parties.” Provider and each Provider Affiliate shall be jointly and severally responsible and liable for the obligations of Provider and each Provider Affiliate hereunder, and Provider shall cause each Provider Affiliate to comply with the terms and conditions of this Agreement. Recipient and each Recipient Affiliate shall be jointly and severally responsible and liable for the obligations of Recipient and each Recipient Affiliate hereunder, and Recipient shall cause each Recipient Affiliate to comply with the terms and conditions of this Agreement.

### WITNESSETH

**WHEREAS**, Provider and Recipient, or their respective Affiliates, are parties to that certain Separation and Distribution Agreement, dated as of November 1, 2025 (the “Separation Agreement”), which sets forth, among other things, the terms of the separation of the Business (as defined below) from DuPont de Nemours, Inc., a Delaware corporation; and

**WHEREAS**, in connection with the transactions contemplated by the Separation Agreement, the Parties have agreed to enter into this Agreement, pursuant to which Provider shall provide, or cause its Affiliates to provide, to Recipient and, to the extent provided herein, the Recipient Affiliates, with the Services (as defined below) in connection with the Business (as defined below), in each case on a transitional basis and subject to the terms and conditions set forth herein.

**NOW, THEREFORE**, in consideration of the foregoing and the mutual agreements, provisions and covenants contained in this Agreement, the Parties, intending to be legally bound, hereby agree as follows:

### ARTICLE I DEFINITIONS

1.1 Definitions. As used in this Agreement, the following terms shall have the following meanings:

“Action” shall mean any demand, action, claim, cause of action, suit, countersuit, arbitration, inquiry, case, litigation, subpoena, proceeding or investigation (whether civil, criminal or administrative) by or before any court or grand jury, any Governmental Entity or any arbitration or mediation tribunal or authority.

“Affiliate” shall mean, when used with respect to a specified Person, a Person that directly or indirectly, through one or more intermediaries, controls, is controlled by, or is under common control with such specified Person. For the purposes of this definition, “control” (including the terms “controlled by” and “under common control with”), when used with respect to any specified Person shall mean the possession, directly or indirectly, of the power to direct or cause the direction of the management and policies of such Person, whether through the ownership of voting securities or other interests, by Contract or otherwise.

“Ancillary SLA” shall have the meaning provided in Exhibit C.

“Applicable Exchange Rate” shall mean the applicable exchange rate published by Reuters at [www.reuters.com/markets/currencies](http://www.reuters.com/markets/currencies) or another reasonable source if the applicable rate is not available on Reuters.

“Assigning Party” shall have the meaning provided in Section 11.2(b).

“Background IP” shall mean, with respect to a particular Party and its Affiliates, any and all Intellectual Property that is (a) owned by such Party (or its Affiliates) as of the Effective Date, or (b) created or acquired by or on behalf of such Party (or its Affiliates) independently from this Agreement and the other Ancillary Agreements (as defined in the Separation Agreement); provided, that for clarity, any Intellectual Property acquired by Recipient or its Affiliates pursuant to the Separation Agreement shall be deemed Recipient’s or its Affiliate’s (as applicable) Background IP.

“Business” shall mean the following lines of business (whether covered independently or in association with one or more Third Parties through a partnership, joint venture or other mutual enterprise), in each case as conducted prior to the Effective Date by any member of the ElectronicsCo Group (as defined in the Separation Agreement), RemainCo Group (as defined in the Separation Agreement) or any of their respective predecessors: Semiconductor Technologies (which, for avoidance of doubt, includes Chemical Mechanical Planarization Technologies (CMPT); Lithography; Chemical Mechanical Planarization (CMP) Slurries; Displays HDM/PI; Organic Light Emitting Diodes (OLEDs); Display Materials; Advanced Clean Technologies; and Kalrez®) and Interconnect Solutions (which, for avoidance of doubt, includes LED Silicones; Metalization and Imaging; Advanced Packaging (APT); Semi Packaging Silicones; Laminates; Films; Laird Performance Materials; and Electronic Polymers).

“Business Day” shall mean any day that is not a Saturday, a Sunday or any other day on which banks are required or authorized by Law to be closed in The City of New York.

“Change” or “Changes” shall have the meaning provided in Section 2.1(g).

“Change Request” shall have the meaning provided in Section 2.1(g).

“Claim” or “Claims” shall mean any action, claim, demand, suit, arbitration or other proceeding.

“Code” shall mean the U.S. Internal Revenue Code of 1986, as amended.

“Contract” shall mean any agreement, contract, subcontract, obligation, note, indenture, instrument, option, lease, sublease, promise, arrangement, release, warranty, license, sublicense, insurance policy, purchase order or legally binding commitment or undertaking of any nature (whether written or oral and whether express or implied).

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“Contract Manager” shall have the meaning provided in Section 8.1.

“Copyrights” shall mean copyrightable works, copyrights (including in product label or packaging artwork or templates), moral rights, mask work rights, database rights and design rights, in each case, whether or not registered, and registrations and applications for registration thereof.

“Cost Principles” shall mean charging Full Cost plus a mark-up of five percent (5%).

“DEAA” shall mean the DuPont Electronic Access Agreement attached as Exhibit D hereto.

“Defaulting Party” shall have the meaning provided in Section 5.1.

“Demand Forecasting” shall have the meaning provided in Section 3.7(c).

“DISO” shall have the meaning provided in Section 3.7(g).

“DTA” shall mean the Data Transfer Agreement attached as Exhibit E hereto.

“Effective Date” shall have the meaning provided in the Preamble.

“Engineering Models and Databases” shall mean (a) physical property databases, (b) empirical or mathematical dynamic or steady state models of processes, equipment and/or reactions and databases containing data resulting from such models, (c) computations of equipment or unit operation operating conditions including predictive or operational behavior and (d) databases with historical operational data.

“Expenses” shall have the meaning provided in Section 4.1(b).

“Extended Term” shall mean, to the extent an extension is permitted for a given SLA, the extended term set forth in such SLA.

“Extended Term Cost Principles” shall mean charging the Service Fee as of the date immediately prior to the effective date of such extension, plus an additional ten percent (10%) mark-up.

“Fixed Costs” shall mean for any Service, personnel costs including base salary plus overtime (full-time, part-time and contract labor), bonus and stock-based compensation, benefits, payroll taxes, travel expenses, employee training, facilities, leasing or space costs and costs for administrative support incurred by the Provider and its Affiliates, as well as non-personnel costs including maintenance allocations, depreciation and amortization, WAN usage, hardware (laptops, cellphones and other peripherals), Software (including licensing), data center hosting, Third Party vendor costs and expenses of direct supervision allocated proportionally.



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“Force Majeure” shall mean, for each Party, any circumstance(s) beyond the reasonable control of that Party which has the effect of delaying, hindering or preventing, in whole or in part, performance, including, but not limited to:

(a) acts of God or acts of providence that result in a shutdown, failure, incapacity or reduced capacity of the facilities associated with the performance of this Agreement, including epidemics, pandemics, landslides, hurricanes, floods, washouts, fires, lightning, tornadoes, earthquakes, storm warnings, perils of the sea, extreme heat or extreme cold, and other adverse weather conditions and threats of any of the foregoing, and whether preceded by, concurrent with, or followed by acts or omissions of any human agency (other than a Party’s employees or contractors, or a Party’s vendors or suppliers who are under the reasonable control of a Party), whether foreseeable or not;

(b) acts or omissions of Governmental Entities or request of Governmental Entities, including any Law, decree, order or regulation of any Governmental Entities, whether federal, state or local, in each case, not related to any wrongdoing by the Party claiming to be affected by such event (or by such Party’s Affiliates);

(c) acts of civil disorder including acts of sabotage, acts of the public enemy, acts of war (declared or undeclared), civil disobedience, acts of terrorism, cyber-attacks, blockades, insurrections, riots, mass protests or demonstrations or threats of any of the foregoing, and police action in connection with or in reaction to any such act of civil disorder;

(d) acts of industrial disorder, including strikes, collective bargaining obligations, labor dispute or shortage, lockouts, picketing, and threats of any of the foregoing, when any such act of industrial disorder directly or indirectly results in the inability of the affected Party to perform its obligations under this Agreement, regardless of whether the settlement of any labor dispute to prevent or end any such act of industrial disorder is within the sole discretion of the Party involved in such labor dispute;

(e) failure to supply or delay on the part of contractors, or errors in services supplied by contractors; and

(f) inability to obtain or shortage of fuel, utilities, equipment or apparatus, or failures of equipment;

provided, that, in each case, such event impacts the assets or operations required for the applicable Party’s performance under this Agreement and is not under or within the reasonable control of the Party (or its Affiliates) claiming to be affected by such event; provided, further, that the COVID-19 pandemic or any other epidemic or pandemic shall not constitute a Force Majeure, but any adverse circumstances resulting from the COVID-19 pandemic or any other epidemic or pandemic, including the foregoing circumstances listed in (a) through (f) of this definition of “Force Majeure,” may constitute a Force Majeure. Any failure by a Third Party supplier to supply (in whole or in part) any Service due to a Force Majeure affecting such supplier (except in the event of a breach, or alleged breach, by a Party of its contract with such Third Party supplier) shall constitute Force Majeure hereunder if, and to the extent that, such event or failure prevents, hinders or delays a Party in the performance of its obligations hereunder.

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“Full Cost” shall mean Fixed Cost and Variable Cost incurred by Provider and its Affiliates while providing the Service.

“Governmental Entity” shall mean any nation or government, any state, municipality or other political subdivision thereof and any entity, body, agency, commission, department, board, bureau or court, whether domestic, foreign, multinational or supranational exercising executive, legislative, judicial, regulatory, self-regulatory or administrative functions of or pertaining to government and any executive official thereof.

“Indemnified Party” shall have the meaning provided in Section 7.2.

“Indemnifying Party” shall have the meaning provided in Section 7.2.

“Intellectual Property” shall mean any and all rights (created or arising in any jurisdiction anywhere in the world, whether statutory, common law, or otherwise) to the extent arising from or related to intellectual property, including (a) Patents, (b) Trademarks, (c) Copyrights, (d) rights in Know-How, (e) rights in Software, (f) all other intellectual property or proprietary rights, (g) all registrations and applications for registration of any of the foregoing clauses (a) through (f), and (h) all actions and rights to sue at law or in equity for any past, present or future infringement, misappropriation or other violation of any of the foregoing.

“Intentionally Omitted Services” shall have the meaning provided in Section 2.1(a).

“IT Assets” shall mean all Software, computer systems, telecommunications equipment, databases, internet protocol addresses, data rights, and documentation, reference, resource and training materials to the extent relating thereto, and all Contracts (including Contract rights) relating to any of the foregoing (including software license agreements, source code escrow agreements, support and maintenance agreements, electronic database access contracts, domain name registration agreements, website hosting agreements, software or website development agreements, outsourcing agreements, service provider agreements, interconnection agreements, Permits, radio licenses and telecommunications agreements), other than, in each case, Know-How contained therein that is not intrinsically related to the operation or maintenance of such IT Assets.

“Judgment” shall mean any judgment, injunction, ruling, award, order, determination, decree or writ of any Governmental Entity, arbitrator or arbitral tribunal.

“Know-How” shall mean all confidential or proprietary information, including trade secrets, know-how and technical data, including any that comprise financial, business, scientific, technical, economic or engineering information and instructions, including any confidential or proprietary raw materials, material lists, raw material specifications, manufacturing or production files or specifications, plans, drawings, blueprints, design tools, quality assurance and control procedures, simulation capability, research data, manuals, compilations, reports including technical reports and research reports, analyses, formulas, formulations, designs, prototypes, methods, techniques, processes, rights in research, development, manufacturing, financial, marketing and business data, pricing and cost information, customer and supplier lists and information, procedures, inventions, and invention disclosure documents, as well as Plant Operating Documents, and Engineering Models and Databases, in each case, other than Patents.

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“Law” shall mean any U.S. or non-U.S. federal, national, supranational, state, provincial, local or similar statute, constitution, law, ordinance, regulation, rule, code, income tax treaty, order, requirement or rule of law (including common law) or other binding directives promulgated, issued, entered into or taken by any Governmental Entity.

“Liability” or “Liabilities” shall mean any and all indebtedness, liabilities, costs, expenses, interest and obligations, whether accrued or fixed, absolute or contingent, matured or unmatured, known or unknown, foreseen or unforeseen, reserved or unreserved, or determined or determinable, including those arising under any Law, Action, whether asserted or unasserted, or order, writ, judgment, injunction, decree, stipulation, determination or award entered by or with any Governmental Entity and those arising under any Contract or any fines, damages or equitable relief which may be imposed and including all costs and expenses related thereto.

“Losses” shall mean all losses, Liabilities, claims, fines, deficiencies, damages, payments (including those arising out of any settlement or Judgment relating to any Proceeding), interest, obligations, penalties, fees, Taxes and costs and expenses of any kind (including reasonable accountants’ and attorneys’ fees and disbursements incurred in the defense thereof).

“Migration Plan” shall have the meaning provided in Section 2.4(a).

“New IP” shall have the meaning provided in Section 9.1.

“Non-Defaulting Party” shall have the meaning provided in Section 5.1.

“Party” or “Parties” shall have the meaning provided in the Preamble.

“Patents” shall mean patents, patent applications (including patents issued thereon) and statutory invention registrations, patents of importation, patents of improvement, certificates of addition, design patents and utility models, including reissues, divisionals, continuations, continuations-in-part, extensions, renewals and reexaminations thereof.

“Permits” shall mean permits, approvals, authorizations, consents, licenses, registrations, exemptions or certificates issued by any Governmental Entity.

“Person” shall mean any natural person, firm, individual, corporation, business trust, joint venture, association, bank, land trust, trust company, company, limited liability company, partnership or other organization or entity, whether incorporated or unincorporated, or any Governmental Entity.

“Plant Operating Documents” shall mean (a) plot plans, (b) construction, technical, engineering, electrical, instrument drawings, as-built or as-modified drawings including piping and instrument diagrams, 3-D (three-dimensional) models, wiring diagrams, flowsheets, structural designs, map and physical layouts, (c) process flow diagrams, (d) process control schematics, process control and/or shop-floor control strategies, logic or algorithms, (e) standard operating procedures, maintenance and inspection procedures and records, safety audit reports, investigations, safety incident investigation reports, process hazard reviews, capital projects, upgrades, improvements, designs for such projects, upgrades and/or improvements and (f) standard operating instructions and operating data (including product quality and safety data and maintenance and inspection data).

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“Prime Rate” shall mean the rate of interest announced publicly from time to time in New York, New York, by JPMorgan Chase & Co. as its prime rate.

“Proceeding” shall mean any judicial, administrative or arbitral claims, demands, actions, suits, arbitrations, hearings or other proceedings by or before any Governmental Entity, arbitrator or arbitral tribunal.

“Provider” shall mean Provider or any of its Affiliates to the extent such Person will provide the Services under one or more SLAs hereunder.

“Provider Affiliate” shall mean any of Provider’s Affiliates to the extent such Person will provide the Services under one or more SLAs hereunder.

“Recipient” shall mean Recipient or any of its Affiliates to the extent such Person will receive the Services under one or more SLAs hereunder.

“Recipient Affiliate” shall mean any of Recipient’s Affiliates to the extent such Person will receive the Services under one or more SLAs hereunder.

“Recipient Content” shall mean any and all Intellectual Property in and to data or Confidential Information (as defined in the Umbrella Secrecy Agreement) of Recipient or its Affiliates, in each case created by Recipient or its Affiliates and provided to Provider or its Affiliates in connection with this Agreement.

“Recipient Employees” shall mean employees of Recipient or its Affiliates who were employees of the Business immediately prior to the Effective Date.

“Reference Period” shall mean the twelve (12)-month period immediately preceding the Effective Date.

“Relevant Assets” shall have the meaning provided in Section 11.2(a).

“Sales Taxes” shall mean all sales, use, value added, goods and services tax, excise or similar Taxes (including “in-lieu-of” Taxes), however denominated. Sales Taxes shall not include (i) any Taxes based upon, measured by, or calculated with respect to income or profits or (ii) gross receipts Taxes imposed on Provider without statutory provision for the recovery of such Taxes from Recipient.

“Separation Agreement” shall have the meaning provided in the Preamble.

“Service” or “Services” shall have the meaning provided in Section 2.1(a).

“Service Coordinator” shall have the meaning provided in Section 8.2.

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“Service Fees” shall have the meaning provided in Section 4.1(a).

“Service Term” shall have the meaning provided in Section 2.3(b).

“SLA” shall have the meaning provided in Section 2.1(a).

“Software” shall mean all computer programs (whether in source code, object code, or other form), software implementations of algorithms, and related documentation, including flowcharts and other logic and design diagrams, technical, functional and other specifications, and user and training materials to the extent related to any of the foregoing.

“Space Leases” shall mean those certain space lease agreements, by and between Provider and Recipient, or their respective Affiliates, in connection with the closing of the transactions contemplated by the Separation Agreement.

“Specification” shall mean the specifications or scope of the Service stated in the relevant section of the applicable SLAs, as those Specifications may be amended from time to time either in accordance with the terms of the relevant Section of such SLAs or by agreement in writing between the Parties.

“Subsidiary” shall mean with respect to any Person (a) a corporation, fifty percent (50%) or more of the voting or capital stock of which is, as of the time in question, directly or indirectly owned by such Person, and (b) any other partnership, joint venture, association, joint stock company, trust, unincorporated organization or other entity in which such Person, directly or indirectly, owns fifty percent (50%) or more of the equity or economic interest thereof or has the power to elect or direct the election of fifty percent (50%) or more of the members of the governing body of such entity or otherwise has control over such entity (e.g., as the managing partner of a partnership).

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

“Taxes” shall mean all taxes, charges, fees or duties of any kind, however denominated, imposed by any Governmental Entity, which taxes shall include all income or profits taxes, capital taxes, withholding taxes, payroll and employee withholding taxes, employment insurance, social insurance taxes, sales taxes, franchise taxes, gross receipts taxes, business license taxes, occupation taxes, real and personal property taxes, stamp taxes, environmental taxes, energy taxes, transfer taxes (including land transfer taxes), workers’ compensation and other governmental charges, and other obligations of the same or of a similar nature to any of the foregoing. Interest, penalties or other additions that may become payable in respect of Taxes shall not be “Taxes” for purposes of this Agreement.

“Term” shall have the meaning provided in Section 2.3(a).

“Territory” shall mean the United States of America unless otherwise specified in an SLA.

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“Third Party” shall mean any Person other than a Party hereto or its respective Affiliate, and shall include any Governmental Entity and the employees of the Parties.

“Third Party Claim” shall have the meaning provided in Section 7.2(a).

“Trademarks” shall mean trademarks, certification marks, service marks, trade names, domain names, favicons, social media addresses, service names, trade dress and logos, including all goodwill associated therewith, in each case whether or not registered, and registrations and applications for registration thereof, and all reissues, extensions and renewals of any of the foregoing.

“Transitional Employees” shall have the meaning provided in Section 2.2(b).

“Umbrella Secrecy Agreement” shall mean that certain Umbrella Secrecy Agreement, dated as of the date hereof, by and between Provider and Recipient and/or their respective Affiliates.

“Variable Costs” shall mean for any Service, those costs defined as variable by the accounting policies, procedures, definitions, and methods of Provider, most of which tend to change with production or usage levels and that are measured, estimated, or calculated (e.g., variable utilities (e.g., general utilities, electricity, compressed air, natural gas, steam, water, caustic, oxygen, breathing air), variable powerhouse (e.g., general powerhouse, cogeneration, nitrogen, refrigeration, water, steam, compressed air), consumables and supplies, packaging, waste treatment and shipping and warehousing, used by Provider and its Affiliates to provide the Service, which shall increase or decrease in proportion to consumption levels).

“Willful Breach” shall mean an intentional action or failure to act by a Party, which such Party knows constitutes a breach of this Agreement.

1.2 References; Interpretation. For the purposes of this Agreement, (a) words in the singular shall be held to include the plural and vice versa, and words of one gender shall be held to include the other gender as the context requires; (b) references to the terms Article, Section, paragraph, clause, Exhibit and Schedule are references to the Articles, Sections, paragraphs, clauses, Exhibits and Schedules to this Agreement unless otherwise specified; (c) the terms “hereof,” “herein,” “hereby,” “hereto,” and derivative or similar words refer to this entire Agreement, including the Schedules and Exhibits hereto; (d) references to “\$” shall mean U.S. dollars; (e) the word “including” and words of similar import when used in this Agreement shall mean “including without limitation,” unless otherwise specified; (f) the word “or” shall not be exclusive (unless the context indicates otherwise); (g) references to “written” or “in writing” include in electronic form; (h) the Parties have each participated in the negotiation and drafting of this Agreement, and except as otherwise stated herein, if an ambiguity or question of interpretation should arise, this Agreement shall be construed as if drafted jointly by the Parties and no presumption or burden of proof shall arise favoring or burdening any Party by virtue of the authorship of any of the provisions in this Agreement; (i) a reference to any Person includes such Person’s successors and permitted assigns; (j) any reference to “days” means calendar days unless Business Days are expressly specified; (k) when calculating the period of time before which, within which or following which any act is to be done or step taken pursuant to this Agreement,

the date that is the reference date in calculating such period shall be excluded and if the last day of such period is not a Business Day, the period shall end on the next succeeding Business Day; (l) any statute or Contract defined or referred to herein means such statute or Contract as from time to time amended, modified or supplemented, unless otherwise specifically indicated; (m) the use of the phrases “the date of this Agreement,” “the date hereof,” “of even date herewith” and terms of similar import shall be deemed to refer to the date set forth in the preamble to this Agreement; (n) the phrase “ordinary course of business” shall be deemed to be followed by the words “consistent with past practice” whether or not such words actually follow such phrase; (o) where a word or phrase is defined herein, each of its other grammatical forms shall have a corresponding meaning; (p) any consent given by any Party pursuant to this Agreement shall be valid only if contained in a written instrument signed by such Party; and (q) any capitalized term used in any Exhibit but not otherwise defined therein shall have the meaning set forth in this Agreement or the Separation Agreement (as applicable).

## **ARTICLE II**

### **SERVICES PROVIDED**

#### **2.1 Transitional Services.**

(a) Services Provided. Upon the terms and subject to the conditions set forth in this Agreement, Provider will provide (either itself or through its Affiliates or Third Party agents or contractors) to Recipient and the Recipient Affiliates, to the extent requested by them and permitted under this Agreement, those services listed on Exhibit A (each a “Service,” and, collectively the “Services”). Each Service shall be covered by and described in more detail in a Service Level Agreement (“SLA”) attached to and made part of this Agreement in Exhibit B, which shall set forth, among other things, the Service, the Specifications and Service Fee. Except as set forth in Section 2.1(b), in no event shall Recipient be entitled to any new Service without the prior written consent of Provider, which consent may be withheld by Provider in its sole discretion. For the avoidance of doubt, the Services shall not include any of the services set forth on Exhibit C (“Intentionally Omitted Services”). Upon execution of any new or amended SLA, the additional or updated transition service described in such new or amended SLA shall become a Service under this Agreement.

(b) Omitted Services. If, within ninety (90) days after the Effective Date, Recipient provides written notice to Provider of any services that are not then a Service and that were provided to the Business immediately prior to the Effective Date by Provider or any of its Affiliates (including through Third Party agents or contractors) and such service was not previously performed by Recipient Employees or by contractors for which Recipient or its Affiliates acquired or assumed the underlying contract (or entered into its own corresponding contract therefor) (each such service, an “Omitted Service”), then such Omitted Service shall become a Service hereunder contingent upon the Parties entering into a SLA with reasonable terms and conditions consistent with the terms of this Agreement. Provider and Recipient agree to negotiate in good faith and mutually agree upon such SLA; provided, that no Intentionally Omitted Service shall be an Omitted Service without Provider’s prior written consent in its sole discretion.

(c) Standard of Care. Subject to the provisions of Article X, Provider shall perform the Services in a manner generally consistent with the historical provision of the Services to the Business during the Reference Period and with the same standard of care as historically provided during the Reference Period. Nothing in this Agreement shall require Provider to favor the Business of Recipient over Provider's own businesses or those of any of Provider's Affiliates, including any subsidiaries or divisions. Notwithstanding the foregoing, Provider shall give the Business the same level of priority as to Provider's own businesses or those of any of Provider's Affiliates as was given to the Business during the Reference Period.

(d) Service Levels. Subject to the SLAs, which may provide for a higher or lower level, Recipient's level of use of any Service shall not be higher than or expanded from the level of use reasonably required by the Business during the Reference Period.

(e) Reduced Services. Except as otherwise provided in an SLA or this Agreement, Recipient may reduce the level of any Service but must provide at least ninety (90) days' prior written notice to Provider of any decrease in the level of the Services. Any requested modification shall only be effective on the last day of a calendar month (unless otherwise provided in an applicable SLA). Recipient shall be responsible for all Service Fees and Expenses owed for the period prior to the effective date of the Service reduction and reimbursement to Provider of its costs incurred as the result of any reduction in a Service. Any reduction in Service Fees due to a reduction in Services shall take effect following the last day of the month that is three (3) months following the receipt of such reduction of Services notice.

(f) Specification. Except as otherwise set forth in this Agreement, Provider shall provide each Service indicated in an SLA to Recipient according to the specific scope and in the scale and description set forth in the SLA. Except as otherwise set forth herein, Recipient shall not be entitled to receive any service, nor shall Recipient be required to purchase or to accept any service, different from that set forth in the respective SLA or as otherwise agreed in writing between the Parties.

(g) Changes. Subject to Section 2.1(h), or except as otherwise set forth in this Agreement, Recipient shall not be entitled to any change to the nature, the manner of performing or level of a Service or any additional service (each such change a "Change," and, collectively "Changes") without the prior written consent of Provider, which consent may be withheld by Provider in its sole discretion. In the event Recipient desires a Change, it will deliver a written description of the proposed Change (a "Change Request") to Provider's Contract Manager. Provider will use the same change management process for Change Requests that Provider uses to manage similar requests for changes for Provider's own businesses that use the same or similar services. If a Change is approved, Recipient shall be responsible for all increased Service Fees, costs and Expenses associated with such approved Change.

(h) Modifications or Upgrades. Provider reserves the right to modify or upgrade the types or level of the Services or manner of providing the Services as changes are made to respond to the needs of Provider's own businesses or are otherwise made with respect to Provider's agreements with Third Parties or contractors. Provider agrees to provide notification to Recipient of such changes as notification is presented to Provider's own businesses. To the extent that such changes affect a Service, (i) Provider shall have no obligation to continue to supply such Service



using its former technology or to maintain any legacy system as an accommodation to Recipient, and (ii) Recipient shall have no obligation to continue to receive such Service upon the implementation of such changes; provided, that Recipient notifies Provider in writing of its election to discontinue such Service within ten (10) days of Provider's notification of such changes. To the extent Recipient wishes to continue to receive such Service, Recipient shall be obligated at Recipient's expense to conform its systems as necessary to Provider's changes.

(i) Recipient's Use of Services. Provider shall provide all Services directly to Recipient and Recipient Affiliates, except as set forth in an applicable SLA. Subject to Section 11.2, in no event shall Recipient be permitted to resell or supply any Service to any other Affiliates or any Third Party, without the prior written consent of Provider, which consent may be withheld by Provider in its sole discretion. To the extent that Provider consents to provide any Service to an Affiliate of Recipient, such Services shall be provided on terms reasonably acceptable to the Parties and according to the Cost Principles. Recipient shall cause such Affiliate to comply with the terms and conditions of this Agreement, including any additional terms agreed by the Parties, as if such Affiliate were a named party under this Agreement. As a condition precedent to the provision of the Services to an Affiliate of Recipient, Recipient shall cause such Affiliate to execute an undertaking, in a form reasonably acceptable to Provider, agreeing to be bound by the terms and conditions of this Agreement and all additional terms agreed by the Parties. In no event shall Services be rendered to any Recipient Affiliate that is not part of the Business, unless specifically set forth in an applicable SLA.

## 2.2 Personnel, Resources and Third Parties.

(a) Personnel and Third Parties. In providing the Services, Provider, as it deems necessary or appropriate, in its sole discretion, may (i) use the personnel and resources of Provider or its Affiliates, or (ii) employ the services and resources of Third Parties. To the extent the Services are provided by an Affiliate of Provider, the corresponding Service Fee (or portion thereof) may be invoiced by such Affiliate directly to Recipient, and Recipient shall pay such invoice directly to such Affiliate. Provider reserves the right to provide any or all of the Services directly or, in Provider's sole discretion, through its Affiliates, Third Party agents or contractors. Provider shall provide reasonable notice to Recipient in connection with engagement of or changes to any Third Party providing a material Service.

(b) Transitional Employees. Recipient agrees to use commercially reasonable efforts to cooperate with Provider by making available Recipient Employees, who will be employed by Recipient or its Affiliates as of the Effective Date, or other employees of Recipient or its Affiliates performing similar functions as such Recipient Employees, as Provider shall reasonably request in connection with the provision of the Services (the "Transitional Employees"). For such time as any Transitional Employees are performing any functions relating to the Services, (i) such Transitional Employees shall remain employees of Recipient or its Affiliates and shall not be deemed to be employees of Provider or Provider's Affiliates for any purpose, and (ii) Recipient and its Affiliates shall be solely responsible for the payment and provision of all wages, bonuses and commissions, employee benefits (including severance and worker's compensation), social security contributions and the withholding and payment of applicable Taxes relating to such employment.

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(c) New or Additional Equipment. Provider shall not be obligated to acquire, upgrade or provide new or additional equipment to perform the Services for Recipient under this Agreement.

### 2.3 Term of Service.

(a) This Agreement shall become effective on the Effective Date and shall remain in effect until the earliest to occur of: (i) the termination or expiration of all Services; or (ii) termination of this Agreement by Provider or Recipient as provided herein (the "Term").

(b) Unless otherwise provided in this Agreement, the term for each Service shall commence on the Effective Date and shall terminate upon the earlier of: (i) the date or at the time specified in the SLA; provided, that upon Recipient's reasonable request, Provider will use commercially reasonable efforts to continue furnishing the Services under such SLA for an Extended Term to the extent permitted by such SLA; provided, further, that in no event shall the term, including any Extended Term, of any Service extend beyond December 31, 2027; (ii) the termination by Provider or Recipient as provided herein; or (iii) the Term (for each Service, the "Service Term").

### 2.4 Migration from Services.

(a) Migration Plan. Each Party acknowledges that the purpose of this Agreement is to provide the Services on an interim basis, until Recipient can perform the Services for itself, either through its own personnel or through Third Parties. Accordingly, at all times from and after the Effective Date, Recipient shall use reasonable efforts to make or obtain approvals, permits or licenses, implement any necessary systems, and take, or cause to be taken, any and all other actions necessary or advisable so as to render receipt of the Services from Provider no longer necessary. Recipient agrees that within one hundred eighty (180) days from the Effective Date (or an additional forty-five (45) days from such date if mutually agreed to in writing by the Parties), it shall provide to Provider, a written migration plan in substantially the form attached hereto as Exhibit H (a "Migration Plan"), to wind down Recipient's receipt of the Services and develop its internal service capabilities or seek Third Party providers so as to render receipt of the Services. The Migration Plan shall include, among other things, the following with respect to the Services: (i) the phases of implementation, (ii) milestones, (iii) expected Provider involvement, (iv) service inter-dependency issues, and (v) contingencies. The cost and fees of Provider to facilitate Recipient's migration is not included in the Service Fees in the SLAs, and Recipient shall be responsible for all costs associated with the creation of the Migration Plan and any implementation thereof. The respective Contract Managers and appropriate functional resources shall meet to discuss implementation of the Migration Plan and expected Provider involvement.

#### (b) Provider's Migration Obligations with Respect to IT Assets.

(i) Limitation on Provider's Migration Obligations. Unless otherwise agreed in writing between the Parties or as specifically set forth in any SLA, Provider's duties related to migration by Recipient from the Services for IT Assets are limited to the following: (A) disclosure of the overall scope and nature of the Services provided; (B) furnishing files of Recipient data which have been retained by Provider in accordance with its own ordinary records retention policies, and to the extent then available, in the format and media in which Provider then maintains such data, subject to the terms of the Separation Agreement; and (C) removal of Provider data from Recipient's IT Assets (provided, that Recipient assists Provider with such obligations as reasonably requested by Provider).

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(ii) Provider's Excluded Migration Obligations. Without limiting and in furtherance of Section 2.4(b)(i), in the absence of an agreement in writing between the Parties, Provider shall have no obligation to: (A) load data to Recipient systems, (B) co-develop conversion programs, (C) convert data into new formats or media, (D) write Recipient extraction programs, (E) generate multiple data file formats, (F) provide or develop interfaces or (G) participate in testing prototypes or pilots.

## 2.5 Limitations and Exclusions.

(a) Third Party Waiver. Recipient expressly waives any and all rights that it or its Affiliates may have to bring any suit or Claim against Provider's Affiliates, Third Party agents or contractors relating to or arising out of this Agreement, other than any Claims for willful misconduct or fraud.

(b) Compliance with Law. Provider shall not be required to perform any of its obligations under this Agreement to the extent Provider reasonably believes that performing such obligation would violate any Law. The Parties shall cooperate in good faith to implement changes and/or modifications to any manner or method of Service, which in Provider's sole discretion, are reasonably necessary to ensure that such Service is performed in strict accordance with applicable Laws. Recipient will promptly implement such changes and/or modifications.

(c) Recipient Data. Provider is not responsible for and shall have no liability with respect to the content or integrity of content of Recipient's data, including communications, stored on systems or at facilities under the ownership or control of Provider, its Affiliates or Provider's Third Party agents or contractors, except to the extent caused by Provider and subject to the limitations set forth in this Agreement.

(d) Professional Advice or Opinions. Recipient shall not rely on, or construe, any Service rendered by or on behalf of Provider as professional advice or opinions or technical advice; and Recipient shall, at its own expense, seek all Third Party professional advice and opinions or technical advice as it may desire or need independently of this Agreement.

## 2.6 Recipient Obligations.

(a) Compliance with Law. Recipient, in the course of receiving the Services or use of the systems of Provider, Provider's Affiliates, or Third Party agents and contractors, shall comply with all applicable Laws, including the United States Copyright Act of 1976, as amended.

(b) Access. To the extent reasonably required to perform the Services, Recipient shall (at its own expense) provide Provider personnel (including any of Provider's Affiliates, agents or contractors) with reasonable and timely access to Recipient's office space, plants, equipment, information (subject to Section 2.6(c)), premises, personnel, power, telecommunications systems and circuits, computer systems, and any other areas and equipment. Without limiting the foregoing, Recipient shall make accessible to Provider, as needed, Recipient's key users and other Recipient personnel responsible for the execution, maintenance and enhancement of processes relating to the Services.

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(c) Information Requests. Recipient shall cooperate with Provider to respond to Provider's reasonable requests for any information, document, instrument or other writing which in Provider's sole discretion is necessary to the provision of the Services. Provider shall not be liable for any impairment of any Service to the extent caused by its not receiving information either in a timely manner or not at all, or by its receiving inaccurate or incomplete information from Recipient.

(d) Site Regulations. Each Party shall comply with the other Party's site rules, regulations and procedures when on the other Party's sites, including safety, security and/or background checks and drug testing.

(e) Acknowledgment of Provider Status. Recipient acknowledges that Provider is providing the Services exclusively as an accommodation to Recipient to allow Recipient a period of time to obtain similar services on its own, and that Provider is not a commercial provider of such services.

2.7 Consents. Provider shall, with cooperation and assistance from Recipient, use commercially reasonable efforts to obtain any consents, licenses or approvals of Third Parties that are necessary for Recipient to provide the Services to itself pursuant to Section 2.4. Any fees or other charges related to obtaining such consents shall be borne by Recipient. If a Third Party refuses to provide a consent or Provider has not obtained a consent despite Provider using commercially reasonable efforts to obtain such consent, then the Parties shall cooperate and use commercially reasonable efforts to determine and adopt, subject to each Party's approval, alternative approaches to enable Recipient to receive the benefit of this Agreement without disruption to the Business. Any costs associated with such alternative approaches shall be borne by Recipient.

### ARTICLE III

#### INFORMATION SYSTEMS AND SUPPORT

3.1 Software and Database Access. Recipient shall not and has no right to access or use any Software, related data or databases owned by or licensed to Provider or its Affiliates, including Software used by Provider for the benefit of Recipient, except in accordance with the grant in Section 3.2 below.

3.2 Recipient's Limited Use Rights. Subject to the receipt of necessary consents from Third Parties, Provider hereby grants to Recipient a non-exclusive, non-transferable, revocable right during the respective Service Term to use the Software owned by or licensed to Provider and related data and databases, in conformance with this Agreement and with any applicable Third Party license, for Recipient's internal use only and not for the benefit of any Third Party unless expressly agreed otherwise in writing, and only as necessary for Recipient's receipt of the Services. Recipient shall not, and shall cause its Affiliates, personnel, agents and contractors not to, modify, disassemble, reverse engineer, decompile or create derivative works of such Software, or copy

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such Software other than (a) as necessary to receive the Services or (b) to the extent not prohibited by applicable Law. Provider will use reasonable efforts to request that all Third Party agents and contractors providing the Services grant similar rights with respect to Software used by such Third Party agents and contractors to provide the Services; provided, that Recipient shall be responsible for all costs associated with securing such Third Party consents.

3.3 Relocation. Provider reserves the right to relocate or have relocated any and all applications accessed by Recipient pursuant to this Agreement to computer systems not currently utilized to provide such Services at no additional charge to Recipient.

3.4 Security. Provider will administer all security measures to be applied to Provider's systems, including access rights to Recipient's users. Provider reserves the right to control Recipient's access to systems and applications on Provider's network. Recipient will administer all security measures to be applied to Recipient's systems, including access rights to Provider's users, if any.

3.5 Data and Network Restrictions. Provider and Recipient understand that Recipient may need to access Provider Software and related data and databases in which there is no commercially practical method to partition or separately protect Provider data or information or to restrict access by Recipient to Provider networks or applications. In such case, if Provider believes that there is a risk to Provider or any of its Affiliates due to Recipient's ability to access Provider or its Affiliates' data, information, network or applications, Provider will have the right, but not the obligation, to establish and implement restrictions on Recipient's access to any Software, data, databases, applications, or networks used in connection with the Services for the purposes of: (a) protecting the security of data on physical and electronic networks of Provider or any of its Affiliates; (b) assuring compliance with contractual restrictions imposed by Third Parties; (c) protecting the integrity of the data, applications, or networks; or (d) protecting against the loss of any material competitive advantage that Provider or its Affiliates may have with respect to its or their competitors. Provider will give reasonable notice to Recipient of the imposition of any such restrictions and use reasonable efforts to avoid any interruption or degrading of the Services being provided by Provider to Recipient arising from the imposition of any such restrictions. Provider reserves the right, upon reasonable notice to Recipient, to reasonably adjust fees and costs of the Services affected by such restrictions in accordance with the Cost Principles.

3.6 Exclusions.

(a) Except as otherwise expressly set forth in the SLAs, Recipient will not receive, as part of the Services: (i) enhancements to any computer applications that are not otherwise made in support of Provider businesses; (ii) program source code; (iii) specifications other than data and file specifications needed to enable Recipient to migrate from Provider systems; (iv) data flow diagrams; (v) training; (vi) database creation statements; (vii) documentation other than that otherwise available to Provider businesses in the form and format generally available; (viii) consultation on creating, installing or customizing new applications, computer, telecommunications or security systems subsequently developed or implemented by Recipient; (ix) addition of new electronic links to trading partners; (x) Software upgrades or additions, hardware upgrades or systems compliance audits unless otherwise performed by Provider in the normal course of supporting Provider business needs; (xi) except as provided in Section 2.4, migration planning or implementation services; (xii) new or renewed licenses for any Software; or (xiii) new projects commenced after the Effective Date.

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(b) Provider will not provide disaster recovery services except as otherwise expressly provided for in an SLA.

(c) Except as otherwise provided in an SLA, Provider shall not be required to provide or reimburse the costs associated with wireless telephone service and/or equipment supplied, purchased or distributed by any wireless telephone provider as part of the Services provided herein. For the avoidance of doubt, Recipient shall be liable and responsible for any and all costs, charges and fees associated with wireless telephone services and/or equipment used by or on behalf of Recipient and its Affiliates (including all new and existing lines of services activated in the name of Provider or its Affiliates) as of and following the Effective Date.

### 3.7 Recipient Obligations.

(a) Recipient shall provide functionality testing to confirm non-impact on Recipient's computers, Software, computer systems of, and Recipient's ability to receive, the Services during any of Provider's or its Affiliates' Software, hardware, telecommunications or security upgrades; provided, that Provider will have given Recipient reasonable notice prior to implementation of any such upgrades. Recipient will report to Provider the results of such functionality testing.

(b) Recipient shall provide all equipment necessary for accessing, inputting and receiving output from Software and hardware provided by Provider as part of this Agreement.

(c) Recipient will engage in studies and forecasting ("Demand Forecasting") with respect to user access of Software, hardware, telecommunications, and security systems hereunder, including new workload demand requests and migration planning efforts. The results of such Demand Forecasting shall be made available to Provider.

(d) Recipient will provide physical security for, and access to Provider to, all computer hardware, infrastructure, networking, data systems and security systems, including any wiring closets and PBX equipment, in each case of the foregoing that is provided to Recipient as part of the Services, and which will reside on Recipient's property or facilities. Access to this equipment will be limited to Provider, Provider's Affiliates, Third Party agents and contractors performing support for the equipment, unless otherwise agreed in writing.

(e) Recipient shall not install its own, its Affiliates' or Third Party Software into the computer system of Provider, its Affiliates, Third Party agents or contractors, without the prior written permission of Provider or the appropriate Affiliate, Third Party agent or contractor. Recipient will be required to pay to Provider or its Affiliate, as applicable, any resultant licensing fees for such installation.

(f) Recipient shall not allow its computer network provided as a part of the Services to be connected to (i) the internet or any Third Party network in any manner other than through Provider's network, or (ii) any public wireless access point.

(g) Recipient shall (i) comply with all aspects of Provider's privacy policy as revised by Provider from time to time, and (ii) comply with all physical and electronic security requirements and conditions for Provider and its Affiliates' network and computer system access and usage; provided, that such policies are delivered to Recipient on or before the Effective Date (or with reasonable advance written notice following the Effective Date). The DuPont Electronic Access Agreement ("DEAA") (attached hereto as Exhibit D) shall be deemed to be delivered to Recipient in accordance with the immediately preceding sentence and shall be deemed executed by the Parties upon the execution of this Agreement. Recipient shall cause other Affiliates under its control and receiving any Services to execute the DEAA as it may be amended from time to time. In the event that Recipient or permitted subcontractors or permitted agents of Recipient discover or are notified of a breach or potential breach of security, Recipient shall immediately notify the appropriate Provider representative of such breach or potential breach. In addition to the foregoing, Recipient will review and adhere to the DuPont Information Security Organization ("DISO") policies and standards as delivered by Provider to Recipient. To the extent that any of the foregoing DISO policies or procedures of Provider shall be updated or otherwise amended from time to time, notification shall be delivered by Provider to Recipient as notification is presented to other Provider businesses.

(h) Recipient shall require all individual users of the Services to consent to and/or acknowledge their respective obligations to comply with Provider's acceptable computer usage and privacy policy applicable to Provider's own employees, and shall secure all legally required consents and/or acknowledgments to permit Provider to monitor all usage of the Services by such individual users as permitted by such policy.

(i) Subject to Provider's right to restrict or deny network or computer system access and usage to Recipient as otherwise provided in this Agreement, upon expiration or earlier termination of the Term, the DEAA shall terminate (save and except for the terms and conditions contained therein that expressly survive termination) and Provider shall revoke all network and computer system access and usage rights of Recipient provided in this Agreement.

(j) Upon Provider's request, Recipient shall deliver to Provider a written certification that Software licensed to Recipient pursuant to this Agreement has been removed from all Recipient equipment.

(k) Both Parties agree to comply with applicable Law with respect to the processing of data and accordingly hereby enter into the Data Transfer Agreement ("DTA") attached hereto as Exhibit E, setting out the terms upon which a Party agrees to process personal data on behalf of another Party, which is determined executed by the Parties hereto upon execution of this Agreement.

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**ARTICLE IV**  
**COMPENSATION**

**4.1 Consideration.**

(a) Service Fees. As consideration for Provider providing the Services in accordance with this Agreement, Recipient shall pay to Provider the sum of the amounts specified in this Agreement and in each SLA in effect during the relevant period including any costs related to a reduction or termination of a Service (collectively, the "Service Fees"). For the avoidance of doubt, the Service Fees shall be determined in accordance with the Cost Principles, but at all times shall be as set forth in each SLA to the extent specified therein (i.e., the Service Fees, to the extent specified in the SLA, will control over the Cost Principles). If Recipient exercises its rights to an Extended Term under a given SLA, unless otherwise agreed by Provider in writing, the Service Fees for such Extended Term shall be calculated in accordance with the Extended Term Cost Principles. To the extent set forth in any SLA, the Service Fees shall also be subject to increases at the beginning of each calendar year during the Term of such SLA.

(b) Expenses. In addition to the Service Fees set forth in the SLAs, and subject to Section 4.1(a) of this Agreement, Recipient shall reimburse Provider for any expenditures specified in an SLA as being a pass-through expenditure (the "Expenses").

**4.2 Taxes.**

(a) The Service Fees referred to in Section 4.1(a) are exclusive of any Sales Taxes imposed with respect to such Service Fees. Recipient shall pay or reimburse, and hold Provider harmless against, any and all Sales Taxes that Provider is required to remit or pay in connection with the provision of Services by Provider to Recipient during the Service Term under this Agreement unless, and to the extent that, Recipient provides Provider with a valid and timely exemption (or resale) certificate or other information reasonably acceptable to Provider, indicating that (i) Recipient is exempt from such Sales Taxes, (ii) Recipient is authorized to remit directly such Sales Taxes to the appropriate Tax Authority (and Provider has no liability in the event of Recipient's failure to so remit such Sales Taxes) or (iii) such Sales Taxes are inapplicable and the basis therefor; provided, that Provider has provided Recipient with an invoice in a form normal and customary for the purposes of the applicable Sales Taxes. Payments by Recipient pursuant to the preceding sentence are in addition to, do not reduce, and shall not be deducted from, payments under this Agreement. If Recipient provides Provider with the exemption (or resale) certificate described above and Provider relies on such exemption (or resale) certificate which is later determined to be incorrect, incomplete or otherwise defective, Recipient shall pay or reimburse, and hold Provider harmless from, any and all Sales Taxes, together with any penalties, interest or other additions to Sales Taxes that Provider is required to remit or pay as a result thereof. The Parties shall take commercially reasonable steps to cooperate to legally minimize the imposition of Sales Taxes relating the provision of Services pursuant to this Agreement.

(b) Nothing in this Article IV shall require Recipient to pay or reimburse, or hold Provider harmless from, any Sales Taxes that (i) is otherwise taken into account under this Agreement or (ii) that arises out of or results from the negligence or intentional misconduct of, or any failure to comply with applicable Law by, Provider or its Affiliates.

(c) If any payment made pursuant to this Agreement is subject to any withholding or deduction under applicable Law, the Party obligated to withhold shall (i) promptly notify the other Party, in writing, of such requirement at least ten (10) Business Days prior to making any withholding or deduction, and provide a reasonable opportunity for such other Party to provide forms or evidence that would exempt such amounts from withholding, (ii) pay to the relevant Tax Authority the full amount required to be deducted or withheld, and (iii) promptly forward to the other Party an official receipt (or a certified copy) evidencing such payment. Any amounts so deducted or withheld shall be treated as having been paid to the Person in respect of whom such deduction or withholding was made for all purposes of this Agreement.



4.3 Invoices. Provider shall provide invoices for the Services provided in a given month on a monthly basis, no later than the tenth (10th) Business Day of the month following the month when the Services were provided. Invoices shall detail the Service Fees, Taxes, Expenses and any costs and fees described in Section 4.1, if any, owed by Recipient with respect to the Services provided and Expenses incurred or paid with respect to the Services during the previous calendar months. Such monthly invoices shall designate the amount invoiced in respect to each SLA. On a monthly basis, Provider shall designate currency conversion rates, which Provider shall reasonably determine based on the Applicable Exchange Rate, on the last day of the month in which the applicable Service is provided (or, if the Applicable Exchange Rate is not available on such day, the Applicable Exchange Rate on the closest preceding day for which the Applicable Exchange Rate is available). All invoices shall be sent electronically to Recipient via the email addresses provided by Recipient to Provider in writing or, in the event that no email address is specified by Recipient, then at the address set forth in Section 11.5; provided, that Recipient may change the email address for invoices upon thirty (30) days' prior written notice. Any disputes regarding an invoice shall be resolved in accordance with the terms of Section 4.4(b).

#### 4.4 Payment.

(a) Invoice Remittance. Recipient shall pay to Provider, on or before thirty (30) days after the date of invoice, without demand and without any deduction, set-off, withholding or abatement whatsoever (except as provided in Sections 4.2(b) and 4.4(b)), the full amount of Service Fees and Expenses due unless the amount due is disputed, in which event the dispute shall be resolved in accordance with the terms of Section 4.4(b). All payments hereunder shall be made by electronic funds transmission or other mutually agreeable means denominated in the currency of the Territory or as otherwise specified in the relevant SLA. Payments due on a day other than a Business Day shall be due on the next succeeding Business Day. If needed, the Parties will implement arrangements to provide for electronic funds transfer on customary terms, with written confirmation, for such transfers.

(b) Disputed Amounts. Recipient shall promptly notify Provider of any dispute with any invoice and the Parties shall seek to resolve all disputes in accordance with the invoice dispute resolution process set forth on Exhibit F. Recipient shall pay all invoiced amounts (including any disputed amounts) and accrued interest within the period set forth and according to the processes described in Section 4.4(a) and Exhibit F, as applicable.

(c) Late Payments. All invoices paid after the applicable due date shall bear interest calculated on a per annum basis from the invoice due date to the date of actual payment equal to: (i) the Prime Rate, or (ii) the maximum amount allowed by Law, whichever is lower.

(d) Discontinuation of Service. If any amount due and payable to Provider pursuant to this Section 4.4 is not paid by Recipient within fifteen (15) days after its due date, as set forth in Section 4.4(a), or, for disputed amounts that the Parties are working in good faith to resolve such disputed amounts pursuant to the terms of Exhibit F, within fifteen (15) days of the date provided on Exhibit F, Provider may notify Recipient in writing of Recipient's payment default in accordance with the notice provision set forth in Section 11.5. If Recipient has not cured such payment default within fifteen (15) days of Provider's notification of such payment default, Provider shall have the right, in its sole discretion and without any resulting Liability to Recipient or to anyone claiming by or through Recipient because of such action, (i) to cease providing any such Service(s) (as provided in Section 5.4) for which payment has not been made, (ii) notwithstanding the provisions of Article V, terminate the relevant SLA, and such termination shall be without prejudice to any other remedy which may be available to Provider or (iii) change payment terms to payment in advance. Provider's exercise of its rights under this Section 4.4(d) shall not limit or otherwise affect Provider's right to terminate a Service, an SLA or this Agreement in accordance with Article V.

4.5 No Offset. Regardless of any other rights under any other agreements or Law and notwithstanding anything to the contrary contained herein, Recipient shall not have the right to set off any claim it may have or reduce its payment under this Agreement.

## **ARTICLE V**

### **TERMINATION**

5.1 Default. Subject to the terms of Article X below, if any Party (the "Defaulting Party") shall fail to perform or default in any material respect in the performance of any of its obligations under this Agreement or any Exhibit or SLA hereto, Provider (in the case of a failure or default by Recipient) or Recipient (in the case of a failure or default by Provider) (each, a "Non-Defaulting Party") may give written notice to the Defaulting Party specifying the nature of such failure or default and stating that the Non-Defaulting Party intends to terminate this Agreement if such failure or default is not cured within thirty (30) days of such written notice. If any failure or default so specified is not cured within such thirty (30)-day period, the Non-Defaulting Party may elect to immediately terminate this Agreement or any affected SLA. If any failure or default is not capable of cure within the respective cure period, the Non-Defaulting Party may elect to immediately terminate the affected SLA. Any termination as provided herein shall be effective upon giving a written notice of termination from the Non-Defaulting Party to the Defaulting Party following the respective cure period (if applicable) and shall be without prejudice to any other remedy which may be available to the Non-Defaulting Party against the Defaulting Party.

5.2 Insolvency Event. Notwithstanding anything to the contrary contained herein, if a Party (a) files for bankruptcy, (b) becomes or is declared insolvent, or is the subject of any proceedings related to its liquidation, insolvency or the appointment of a receiver or similar officer, (c) enters into any reorganization, composition or arrangement with its creditors (other than relating to a solvent restructuring), (d) makes an assignment for the benefit of all or substantially all of its creditors, or (e) takes any corporate action for any winding-up, dissolution, liquidation or administration (other than for the purpose of or in connection with any solvent amalgamation or reconstruction), then Provider (in the case of Recipient) or Recipient (in the case of Provider) may, without prejudice to its other rights hereunder terminate this Agreement forthwith by written notice. Without limiting the foregoing, Provider may, without prejudice to its other rights hereunder, terminate this Agreement forthwith by written notice upon the occurrence of a default or an event which, with the giving of notice or passage of time, or both, would result in an event of default with respect to any outstanding indebtedness of Recipient or any of its Affiliates.

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5.3 Voluntary Termination. Subject to the terms of the applicable Exhibit or SLA hereto, Recipient may terminate any Service by giving Provider at least ninety (90) days' advance written notice of its desire to terminate such Service; provided, that the termination of any Service shall only be effective on the last day of a calendar month (unless otherwise set forth in any applicable Exhibit or SLA) and that Recipient pays any applicable termination fees. If any Service is not selected by Recipient as of the Effective Date, or is terminated by Recipient as described herein, Recipient may not select such Service or reinstitute such Service, as the case may be, absent Provider's prior written agreement. The notice of termination of a Service by Recipient shall be sufficiently specific as to identify the particular SLA or part thereof, and particular Service for which any such termination shall apply.

5.4 Effect of Termination. Recipient specifically agrees and acknowledges that all obligations of Provider to provide each respective Service shall immediately cease upon the expiration or earlier termination of the Service Term (including any Extended Term) for such Service. Provider shall have no obligation to recommence the provision of any Service to Recipient once any Service is not renewed or terminates under this Agreement. Further, upon the cessation of Provider's obligation to provide any Service, Recipient shall immediately cease using, directly or indirectly, such Service (including any and all Provider Software or Third Party Software provided through Provider and computer systems or equipment). Recipient hereby agrees that Provider will experience a negative impact on Provider's businesses as a result of providing any Service beyond the Service Term specified for such Service. In the event that any Service is continued beyond such date, and Recipient uses or benefits from such continuance, the Parties agree that Recipient shall be responsible to Provider for such continued Services, including any Third Party costs incurred by Provider as a result of such continued use, but in no event at an amount less than one and one-half (1.5) times the Service Fees and Expenses relating to such Service.

5.5 Survival of Payment Obligations. Notwithstanding anything to the contrary contained herein, termination of this Agreement or any SLA shall not affect Recipient's obligation to pay any amount then owed to Provider (and amounts that become due and payable pursuant to the terms hereof after the applicable termination date) or a Third Party hereunder, including any costs or fees charged by Third Parties in connection with such termination of any Service.

5.6 Records. In the event of termination of a Service, upon Recipient's reasonable written request and at Recipient's expense, Provider will use reasonable efforts to make available to Recipient any records, data, Confidential Information (as defined in the Umbrella Secrecy Agreement) and reports relating to Recipient, which have been kept and retained by Provider in accordance with its ordinary records retention policies to the extent then available in the format and media that Provider then maintains such data during normal business hours.

5.7 Settlement of Accounts. Upon termination of any SLA, the Parties shall take all steps as may reasonably be required to complete any final settlement of accounts owing hereunder between them with respect to such SLA. Upon the termination of this Agreement, there will be a final accounting and each Party shall pay to the other Party any amounts owed to the other Party in accordance with the payment terms set forth in this Agreement.

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**ARTICLE VI**  
**LIMITATION OF LIABILITY AND DISCLAIMER OF WARRANTIES**

6.1 Liability. Except as expressly provided in (a) this Article VI and Article VII, neither Provider nor Recipient nor their respective Affiliates shall have Liability to the other Party or its Affiliates for any or all Claims arising out of this Agreement and (b) Section 6.3, neither Provider or Recipient nor their respective Affiliates shall have cumulative Liability to the other Party or its Affiliates for any or all Claims and/or Losses arising out of this Agreement in excess of the total Service Fees paid or payable hereunder in a six (6)-month period, whether such Claims and/or Losses arise on account of the furnishing or accepting of the Services hereunder, the failure to furnish or accept the Services hereunder, or otherwise.

6.2 Limitation of Losses. Notwithstanding Section 6.1 and subject to Section 6.3, if Provider or Recipient or their respective Affiliates suffers Losses arising out of this Agreement or any SLA, which Losses were caused by the other Party's or its Affiliates' breach of this Agreement, the sole liability of such breaching Party shall be (a) if the breaching Party is the Party that performed the Service, to refund the Service Fees and Expenses and/or other applicable costs and expenses for the relevant Service paid for but not properly performed, or (b) if the breaching Party is Recipient, then it shall pay the costs and expenses incurred by Provider as a result of the breach up to the amount of the Service Fees. SUBJECT TO SECTION 6.3, IN NO EVENT SHALL PROVIDER OR RECIPIENT OR THEIR RESPECTIVE AFFILIATES BE LIABLE FOR PUNITIVE, EXEMPLARY, SPECIAL, INDIRECT, INCIDENTAL OR CONSEQUENTIAL LOSSES ARISING FROM OR RELATING TO ANY CLAIM MADE UNDER THIS AGREEMENT OR REGARDING THE PROVISION OR RECEIPT OF OR THE FAILURE TO PROVIDE OR RECEIVE SERVICE(S) HEREUNDER (EXCEPT FOR ALL COMPONENTS OF AWARDS AGAINST THE NON-BREACHING PARTY IN ANY THIRD PARTY CLAIM, INCLUDING COMPONENTS OF SUCH THIRD PARTY CLAIM RELATING TO ANY OF THE FOREGOING AND ATTORNEYS' FEES). Notwithstanding the foregoing, if Provider fails to provide any Service under this Agreement or an SLA in breach of its obligations hereunder, Recipient shall provide Provider with notice of such failure or breach and an opportunity to cure for thirty (30) days.

6.3 Limited Liability Exclusions. The limitations of Liability and Losses provided in Section 6.1 and Section 6.2 shall not apply to: (a) fines or penalties, including the revocation of any Permit, assessed by a Governmental Entity; (b) any obligation to indemnify, defend and hold harmless under Article VII; (c) Losses arising from any Willful Breach of this Agreement; and (d) Losses arising from willful misconduct or fraud.

6.4 Third Party Service Providers. In the event that a Third Party agent or contractor of Provider supplies any Service and Recipient informs Provider that such Service does not meet the Specification in the applicable section of the relevant SLA, then Provider and any appropriate Affiliate shall use commercially reasonable efforts to work with Recipient and the Third Party agent or contractor to bring the Service within the Specification.

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6.5 Mitigation. Recipient and Provider (as the case may be) shall use their respective commercially reasonable efforts to mitigate the Losses (if any) incurred by them as a result of any breach by another Party of that other Party's obligations under this Agreement.

6.6 DISCLAIMER OF WARRANTIES. SUBJECT TO THE APPLICABLE LEGAL REQUIREMENTS (IF ANY) OF ANY RELEVANT JURISDICTION THAT CANNOT BE VARIED BY CONTRACT, RECIPIENT ACKNOWLEDGES THAT ALL SOFTWARE AND EQUIPMENT PROVIDED AS PART OF THE SERVICES IS PROVIDED "AS IS." PROVIDER DISCLAIMS ANY AND ALL WARRANTIES, CONDITIONS OR REPRESENTATIONS (EXPRESS OR IMPLIED, ORAL OR WRITTEN) WITH RESPECT TO THE SERVICES, SOFTWARE AND EQUIPMENT PROVIDED AS PART OF THE SERVICES, INCLUDING ANY AND ALL IMPLIED WARRANTIES OR CONDITIONS OF TITLE, NONINFRINGEMENT, ACCURACY OF INFORMATIONAL CONTENT, MERCHANTABILITY, OR FITNESS OR SUITABILITY FOR ANY PURPOSE (WHETHER OR NOT PROVIDER KNOWS OR HAS REASON TO KNOW ANY SUCH PURPOSE), WHETHER ALLEGED TO ARISE BY LAW, BY REASON OF CUSTOM OR USAGE IN THE TRADE, OR BY COURSE OF DEALING AND, WITHOUT LIMITING THE FOREGOING, PROVIDER EXPRESSLY DISCLAIMS ANY WARRANTY THAT THE SOFTWARE AND EQUIPMENT WILL BE ERROR-FREE OR FREE OF VIRUSES OR OTHER SOFTWARE ROUTINES OR DEVICES (E.G., BACK DOORS, TIME BOMBS, TROJAN HORSES, OR WORMS), AND RECIPIENT ACKNOWLEDGES THAT IT HAS NOT AND WILL NOT RELY ON ANY SUCH WARRANTIES, CONDITIONS, OR REPRESENTATIONS (WHETHER OR NOT WAIVABLE UNDER APPLICABLE LAW).

## **ARTICLE VII** **INDEMNIFICATION**

### **7.1 Indemnification.**

#### **(a) Third Party Indemnification.**

(i) Indemnification by Recipient. Recipient shall indemnify, defend and hold harmless Provider and its Affiliates from and against any and all Losses arising out of or relating to any Third Party Claim that arises out of or relates to (A) the receipt or use of any Service by Recipient (except to the extent required to be indemnified by Provider pursuant to Section 7.1(a)(ii) or to the extent arising from Provider's breach of this Agreement), (B) Recipient's Willful Breach of this Agreement or violation of Law or any Permit by Recipient or its Affiliates or (C) gross negligence, willful misconduct or fraud by Recipient or its Affiliates.

(ii) Indemnification by Provider. Provider shall indemnify, defend and hold harmless Recipient and its Affiliates from and against any and all Losses arising out of or relating to any Third Party Claim that arises out of or relates to (A) Provider's Willful Breach of this Agreement or violation of Law or any Permit by Provider or its Affiliates or (B) gross negligence, willful misconduct or fraud by Provider or its Affiliates.

(b) Improper Access. Notwithstanding the foregoing, (i) Recipient agrees to indemnify Provider, Provider's Affiliates, agents and contractors for any Losses incurred by Provider, Provider's Affiliates, agents and contractors to the extent arising out of improper access to and/or use of Provider systems by Recipient, Recipient's Affiliates, agents and contractors and (ii) Provider agrees to indemnify Recipient, Recipient's Affiliates, agents and contractors for any Losses incurred by Recipient, Recipient's Affiliates, agents and contractors to the extent arising out of improper access to and/or use of Recipient systems by Provider, Provider's Affiliates, agents and contractors.

(c) Claims Asserted by a Third Party Service Provider. Where a Third Party supplier provides a Service on behalf of Provider hereunder and that Third Party (including its subcontractors, Affiliates, employees or agents) files Claims and/or Losses against Provider or Recipient (or both Provider and Recipient) or their respective Affiliates relating to that Third Party's provision of a Service, Provider and Recipient shall indemnify, defend, and hold the other and its Affiliates, employees and agents, harmless with respect to such Claims and/or Losses to the extent such indemnifying Party was at fault in connection with the underlying act(s) or omission(s).

## 7.2 Indemnification Procedures.

(a) A Person that may be entitled to be indemnified under this Agreement (the "Indemnified Party") shall promptly notify the party or parties liable for such indemnification (the "Indemnifying Party") in writing of any pending or threatened claim or demand that the Indemnified Party has determined has given or would reasonably be expected to give rise to such right of indemnification (including a pending or threatened claim or demand asserted by a Third Party against the Indemnified Party, such claim being a "Third Party Claim"), describing in reasonable detail the facts and circumstances with respect to the subject matter of such claim or demand (to the extent then known); provided, that the failure to provide such notice shall not release the Indemnifying Party from any of its obligations under this Section 7.2(a) except to the extent the Indemnifying Party is actually prejudiced by such failure.

(b) Subject to the provisions of this Section 7.2(b), the Indemnifying Party shall have the right, at its sole expense, to be represented by counsel of its choice, which must be reasonably satisfactory to the Indemnified Party and to defend against, negotiate, settle or otherwise deal with any Third Party Claim, or otherwise assume the defense of any Third Party Claim, which relates to any Losses alleged to be indemnifiable by it hereunder. If the Indemnifying Party elects to defend against, negotiate, settle or otherwise deal with any Third Party Claim, or otherwise assume the defense of any Third Party Claim, which relates to any Losses alleged to be indemnifiable by it hereunder, it shall, within twenty (20) days of the Indemnified Party's written notice of the assertion of such Third Party Claim pursuant to Section 7.2(a), notify the Indemnified Party of its intent to do so; provided, that the Indemnifying Party must conduct its defense of the Third Party Claim reasonably diligently thereafter in order to preserve its rights in this regard. If the Indemnifying Party elects not to defend against, negotiate, settle or otherwise deal with any Third Party Claim, or otherwise assume the defense of any Third Party Claim, which relates to any Losses alleged to be indemnifiable by it hereunder or fails to notify the Indemnified Party of its election as herein provided (or fails to conduct its defense of the Third Party Claim reasonably diligently), the Indemnified Party may defend against, negotiate, settle or otherwise deal with such Third Party Claim with counsel of its own choosing (at the Indemnifying Party's expense; provided, that the Indemnifying Party shall not be required to pay for more than one (1) such

counsel (plus any appropriate local counsel)) and the Indemnifying Party shall have the right to participate in any such defense with separate counsel. If the Indemnifying Party shall assume the defense of any Third Party Claim, the Indemnified Party may participate, at its own expense, in the defense of such Third Party Claim; provided, that such Indemnified Party shall be entitled to participate in any such defense with separate counsel at the expense of the Indemnifying Party if (i) so requested by the Indemnifying Party to participate or (ii) in the reasonable opinion of counsel to the Indemnified Party a conflict or potential conflict exists between the Indemnified Party and the Indemnifying Party that would make such separate representation advisable; provided, further, that the Indemnifying Party shall not be required to pay for more than one (1) such counsel (plus any appropriate local counsel) for all Indemnified Parties in connection with any Third Party Claim. Each Party agrees to provide reasonable access to each other Party to such documents and information as may reasonably be requested in connection with the defense, negotiation or settlement of any such Third Party Claim. Notwithstanding anything in this Section 7.2(b) to the contrary, no Indemnified Party shall, without the prior written consent of the Indemnifying Party, settle or compromise any Third Party Claim or permit a default or consent to entry of any Judgment with respect to any Third Party Claim. If the Indemnifying Party has assumed the defense and control of a Third Party Claim, it shall not consent to a settlement or compromise of, or the entry of Judgment arising from, any Third Party Claim without the consent of any Indemnified Party unless (A) the sole relief provided is monetary damages, (B) there is no finding or admission of any violation of Law or any violation of the rights of any Person, and (C) the Indemnified Party is granted an unconditional release from all Liability with respect to such claim.

## **ARTICLE VIII**

### **GOVERNANCE**

8.1 Contract Managers. Provider and Recipient shall each nominate a representative to act as the primary contact person for the provision of all of the Services (collectively, the “Contract Managers”). The initial Contract Managers shall be Franklin Silva for Provider and Shawn McCutchen for Recipient. Provider and Recipient shall advise each other, upon fifteen (15) days’ prior written notice, of any change in their respective Contract Manager. Provider and Recipient agree that all communications relating to the provision of the Services shall be directed to the Contract Managers. No amendment to any Exhibit or SLA or this Agreement nor any increases, reductions or other changes to the scope and extent of the provision of the Services shall be effective or binding on the Parties once this Agreement is effective unless agreed to in writing by the Parties.

8.2 Service Coordinators. Provider and Recipient shall identify a service coordinator in each SLA executed hereunder to address specific issues or concerns for such SLA (each, a “Service Coordinator”). The Parties may also identify other focal points or teams in the SLA as needed to facilitate effective collaboration between the Parties regarding the Services. Issues that are unable to be resolved by the Service Coordinators shall be escalated to the Contract Managers prior to any other form of executive escalation or dispute resolution.

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**ARTICLE IX**  
**INTELLECTUAL PROPERTY; CONFIDENTIALITY**

9.1 Intellectual Property Ownership. Except as otherwise expressly provided in this Agreement or any other Ancillary Agreement (as defined in the Separation Agreement), each Party shall retain ownership of its and its Affiliates' Background IP and any derivative works, additions, modifications, translations or enhancements thereof created by a Party or its Affiliates pursuant to this Agreement. If and to the extent that any new Intellectual Property is developed by Provider in the performance of this Agreement or the provision of the Services hereunder (excluding, for clarity, any Background IP of either Party or its Affiliates, the "New IP"), Recipient will own any Recipient Content included in the New IP, and Provider will otherwise own all New IP, in each case unless otherwise provided in an SLA. Each Party shall, at the other Party's reasonable request and expense, assist the other Party in obtaining and enforcing the Intellectual Property as allocated hereunder in all countries in the world. To the extent that either Party or its Affiliates is assigned or otherwise obtains ownership of any right, title or interest in or to any Intellectual Property in contravention of this Section 9.1, such Party hereby assigns, and shall cause its Affiliates to assign, to the other Party or the other Party's designated Affiliate all such right, title and interest.

9.2 Intellectual Property Licenses.

(a) License to Provider. Subject to the terms and conditions of this Agreement, Recipient hereby grants, and shall cause its Affiliates to grant, to the extent of their respective rights to do so, to Provider a limited, revocable (solely in accordance with Article V), royalty-free, fully paid-up, sublicensable (through multiple tiers, solely to Affiliates of Provider), non-transferable (except pursuant to a permitted assignment of this Agreement), worldwide, non-exclusive license during the Term in, to and under the Background IP and Recipient Content of Recipient and its Affiliates, solely to the extent that such Background IP and Recipient Content is necessary for Provider to provide the Services to Recipient, and solely for use in the provision of the Services to Recipient. Provider shall, and shall cause its Affiliates to, use such Background IP and Recipient Content of Recipient and its Affiliates solely for purposes of providing the Services to Recipient, except as otherwise expressly permitted pursuant to a written agreement between the Parties or their respective Affiliates.

(b) License to Recipient. Subject to the terms and conditions of this Agreement, Provider hereby grants, and shall cause its Affiliates to grant, to the extent of their respective rights to do so, to Recipient a limited, revocable (solely in accordance with Article V), royalty-free, fully paid-up, sublicensable (solely to Affiliates of Recipient), non-transferable (except pursuant to a permitted assignment of this Agreement), worldwide, non-exclusive license during the Term to use any Background IP that is provided by Provider to Recipient as part of the Services or New IP owned by Provider and its Affiliates (excluding, for clarity, any Recipient Content) solely in connection with the receipt of the Services by Recipient and its Affiliates. Recipient shall, and shall cause its Affiliates to, use such Background IP and New IP solely for purposes of receiving the Services from Provider, except as otherwise expressly permitted pursuant to a written agreement between the Parties or their respective Affiliates.



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9.3 Confidentiality. The Parties acknowledge and agree that the Umbrella Secrecy Agreement is hereby incorporated into this Agreement, and shall apply to the transactions contemplated by this Agreement to the extent applicable, *mutatis mutandis*.

## **ARTICLE X**

### **FORCE MAJEURE**

#### **10.1 Occurrence of Force Majeure**

(a) Excused Performance. A Party affected by a Force Majeure event shall be excused from performance of its obligations under or pursuant to this Agreement if, and to the extent that, performance of such obligations is delayed, hindered or prevented by such Force Majeure. For the avoidance of doubt, a Force Majeure event affecting a Third Party supplier of any Service and any failure by such a supplier to supply (in whole or in part) any Service for any other reason (except in the event of a breach, or alleged breach by Provider of its contract with such Third Party supplier) shall constitute Force Majeure hereunder if, and to the extent that such event or failure prevents, hinders or delays Provider in the performance of its obligations hereunder. A Force Majeure shall not apply to the making of any payment due hereunder.

(b) Notification. The affected Party shall orally notify the other Party as promptly as reasonably practicable after the occurrence of such Force Majeure event and, in addition, shall provide the other Party with written notice of such Force Majeure event as soon as reasonably practicable after the occurrence of such Force Majeure event.

(c) Efforts to Remedy; Notice. Upon the occurrence of a Force Majeure event, the affected Party shall use commercially reasonable efforts to remedy such Force Majeure event (other than with respect to labor disputes, which are addressed by Section 10.1(f)) and shall resume performance of its obligations hereunder as promptly as reasonably practicable after the Force Majeure event has been remedied. The affected Party shall provide prompt notice to the other Party when the relevant Force Majeure event has been remedied.

(d) No Liability. If the Party affected by Force Majeure complies with the provisions of Section 10.1(c), it shall not be liable for any failure to perform its obligations hereunder arising from such Force Majeure, other than its failure to comply with this Article X.

(e) Substitute Services. Upon the occurrence and during the continuance of a Force Majeure affecting Provider, Recipient shall be entitled to obtain substitute Services on a temporary basis. Provider shall cooperate at Recipient's reasonable request and expense with Recipient's efforts to obtain temporary substitute Services. Recipient may terminate a Service affected by a Force Majeure on the later of: (i) the thirtieth (30th) day after the date on which Recipient notifies Provider that it intends to exercise its right to obtain permanent substitute Service; and (ii) any later date of termination specified in such notice, and only in the event that such Force Majeure continues through such date. Upon such termination, Provider will have no further obligation to provide and Recipient shall have no further obligation to accept such Service or Services and all costs associated with such Service shall cease to accrue.

(f) Settlement of Labor Disputes. Notwithstanding anything to the contrary in this Section 10.1(f), express or implied, the settlement of strikes, lockouts and other industrial disputes or disturbances shall be entirely within the discretion of the affected Party, and the affected Party may make settlement thereof in such time and on such terms and conditions as it may deem to be appropriate, and no delay in making such settlement deprives the affected Party of the benefits of the provisions of this Article X.

## **ARTICLE XI MISCELLANEOUS**

11.1 Entire Agreement. This Agreement and the Umbrella Secrecy Agreement, and the Exhibits, Schedules and SLAs hereto and thereto, shall constitute the entire agreement between the Parties with respect to the subject matter hereof and shall supersede all previous negotiations, commitments, course of dealings and writings with respect to such subject matter. In the event of any inconsistency between this Agreement and any Exhibit or Schedule hereto, the Exhibit or Schedule shall prevail. Neither Party shall be liable or bound to the other Party in any manner by any representations, warranties or covenants relating to such subject matter except as specifically set forth herein and therein and none shall be deemed to exist or be inferred with respect to the subject matter hereof.

### 11.2 Successors and Assignment

(a) Subject to Section 11.2(b), neither this Agreement nor any of the rights, interests or obligations under this Agreement shall be assigned or transferred in whole or in part, by operation of Law or otherwise, by either of the Parties without the prior written consent of the other Party. Any purported assignment in violation of the preceding sentence shall be void *ab initio*. Subject to the two preceding sentences, this Agreement shall be binding upon, inure to the benefit of, and be enforceable by, the Parties and their respective successors and permitted assigns.

(b) Notwithstanding anything to the contrary in Section 11.2(a), but subject to the restrictions in the last sentence of Section 2.1(g), either Party or its respective Affiliates (the "Assigning Party") may assign this Agreement, in whole or in part, by operation of law or otherwise, without the prior written consent of the other Party:

(i) To an Affiliate of the Assigning Party; or

(ii) To a Third Party in connection with a sale, conveyance, disposition, divestiture, contribution to a joint venture or a similar transaction, including by merger, consolidation, reorganization, or other business combination, by the Assigning Party or any of its Affiliates of assets or properties of the Assigning Party or any of its Affiliates to which the subject matter of this Agreement relates ("Relevant Assets"); provided, that if the Assigning Party effects an assignment pursuant to this Section 11.2(b)(ii), the Assigning Party may only assign such rights and obligations under this Agreement as are related to such Relevant Assets.

(c) Upon the assignment of this Agreement in accordance with this Section 11.2 and the express assumption by the assignee of the applicable obligations of the assignor under this Agreement through the execution of an assignment and assumption agreement, the assignor shall be automatically released from all obligations and liabilities under this Agreement that are the subject of such assignment and assumption; provided, that such assignment shall not relieve the Assigning Party of its obligations hereunder that have accrued prior to such assignment.

11.3 Amendments and Waivers. Any provision of this Agreement may be amended or waived if, but only if, such amendment or waiver is in writing and is signed, in the case of an amendment, by each Party to this Agreement or, in the case of a waiver, by each Party against whom the waiver is to be effective. No failure or delay on the part of any Party in the exercise of any right, power or privilege hereunder shall impair such right, power or privilege or be construed to be a waiver of, or acquiescence in, any breach of any representation, warranty or covenant herein, nor shall any single or partial exercise of such right, power or privilege preclude other or further exercise thereof or any other right, power or privilege. The rights and remedies provided in this Agreement shall be cumulative and not exclusive of any rights or remedies provided by applicable Law. Notwithstanding the foregoing, the Parties may amend, modify or add SLAs to this Agreement (but only SLAs) at any time, but only by an instrument in writing signed by the Parties.

11.4 No Third Party Beneficiaries. Except for Section 7.1(a), this Agreement and the Exhibits, Schedules and SLAs hereto are for the sole benefit of the Parties and their permitted successors and assigns and nothing herein (express or implied) is intended to confer in or on behalf of any Person not a party to this Agreement (and their successors and assigns) any rights, benefits, causes of action or remedies with respect to the subject matter or any provision hereof.

11.5 Notices. Notices, requests, instructions or other documents to be given under this Agreement shall be in writing and shall be deemed to have been properly delivered, given and received, (a) on the date of transmission if sent via email (provided, however, that notice given by email shall not be effective unless either (i) a duplicate copy of such email notice is promptly given by one of the other methods described in this Section 11.5 or (ii) the receiving party delivers a written confirmation of receipt of such notice either by email or any other method described in this Section 11.5 (excluding “out of office” or other automated replies)), (b) when delivered, if delivered personally to the intended recipient, and (c) one (1) Business Day later, if sent by overnight delivery via a national courier service (providing proof of delivery), and in each case, addressed to a Party at the address for such Party set forth on a schedule to be delivered by each Party to the address set forth below (or at such other address for a Party as shall be specified in a notice given in accordance with this Section 11.5):

(a) if to Provider,

c/o DuPont Specialty Products USA, LLC  
Chestnut Run Plaza  
974 Centre Road  
P.O. Box 2915  
Wilmington, Delaware 19805  
Attention: Franklin Silva  
Email: [•]

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

DuPont Specialty Products USA, LLC  
Chestnut Run Plaza  
974 Centre Road  
P.O. Box 2915  
Wilmington, Delaware 19805  
Attention: General Counsel  
Email: [•]

and

Ballard Spahr LLP  
1735 Market Street, 51st Floor  
Attention: Brian Doerner  
Email: Doerner@ballardspahr.com

(b) if to Recipient,

c/o EKC Advanced Electronics USA, LLC  
Chestnut Run Plaza  
974 Centre Road  
Building 735  
Wilmington, Delaware 19805  
Attention: Peter Hennessey  
Email: [•]

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

EKC Advanced Electronics USA, LLC  
Chestnut Run Plaza  
974 Centre Road  
Building 735  
Wilmington, Delaware 19805  
Attention: Shawn McCutchen  
Email: [•]

SLAs may contain a local address for a given site for notices concerned only with a specific Site.

#### 11.6 Governing Law; Dispute Resolution.

(a) This Agreement shall be governed by, and construed and enforced in accordance with, the laws of the State of Delaware, without regard to any choice or conflict of law provision or rule (whether of the State of Delaware or any other jurisdiction) that would cause the application of the laws of any jurisdiction other than the State of Delaware.

(b) Except as provided in this Agreement, Exhibit G shall apply to the resolution of any Disputes as defined therein. Each of the Parties hereby (i) agrees that service of process will be validly effected by sending notice in accordance with Section 11.5; and (ii) to the fullest extent permitted by law, irrevocably and unconditionally waives and releases, and agrees not to assert by way of motion, defense, or otherwise, in or with respect to any Action, any claim to sovereign or any other immunity in regard to any proceedings to enforce an arbitration award rendered by a tribunal constituted pursuant to Exhibit G, or to compel arbitration or for interim or provisional remedies in aid of arbitration, including immunity from suit, immunity from service of process, immunity from jurisdiction of any court, and immunity of its property and revenues from execution or from attachment or sequestration before or after judgment.

11.7 Specific Performance. The Parties acknowledge and agree that irreparable harm would occur in the event that the Parties do not perform any provision of this Agreement in accordance with its specific terms or otherwise breach this Agreement and the remedies at law for any breach or threatened breach of this Agreement, including monetary damages, are inadequate compensation for any indemnifiable Loss. Accordingly, from and after the Effective Date, in the event of any actual or threatened default in, or breach of, any of the terms, conditions and provisions of this Agreement, the Parties agree that the Parties to this Agreement who are or are to be thereby aggrieved shall, subject and pursuant to the terms of this Article XI (including for the avoidance of doubt, after compliance with all notice and negotiation provisions herein), have the right to specific performance and injunctive or other equitable relief of its or their rights under this Agreement, in addition to any and all other rights and remedies at law or in equity, and all such rights and remedies shall be cumulative. The Parties agree that any defense in any action for specific performance that a remedy at law would be adequate is hereby waived, and that any requirements for the securing or posting of any bond with such remedy are hereby waived.

11.8 Severability. If any term, provision, covenant or restriction of this Agreement is held by a court of competent jurisdiction or other authority to be invalid, illegal, void or unenforceable, the remainder of the terms, provisions, covenants and restrictions of this Agreement shall remain in full force and effect and shall in no way be affected, impaired or invalidated so long as the economic or legal substance of the transactions contemplated hereby is not affected in any manner materially adverse to any Party. Upon a determination that any term, provision, covenant or restriction is invalid, illegal, void or unenforceable, the Parties shall negotiate in good faith to modify to the fullest extent permitted by applicable Law this Agreement so as to effect the original intent of the Parties as closely as possible in a mutually acceptable manner in order that the transactions contemplated hereby be consummated as originally contemplated to the fullest extent possible.

11.9 Counterparts. This Agreement may be executed and delivered (including by facsimile or other means of electronic transmission, such as by electronic mail in "pdf" form) in more than one counterpart, all of which shall be considered one and the same agreement, each of which when executed shall be deemed to be an original, and shall become effective when one or more such counterparts have been signed by each of the Parties and delivered to each of the Parties.

11.10 Expenses. Whether or not the transactions contemplated by this Agreement take place, and except as set forth otherwise in this Agreement, all costs and expenses (including legal fees, accounting fees, investment banking fees, and filing fees) incurred in connection with this Agreement and the transactions contemplated hereby shall be paid by the Party incurring such expenses.

11.11 Parties in Interest. The provisions of this Agreement and any Exhibit or Schedule hereto and the obligations and rights hereunder and thereunder shall be binding upon, inure to the benefit of and be enforceable by (and against) the Parties and their respective successors and permitted transferees and assigns. Nothing expressed or implied in this Agreement is intended or will be construed to confer upon or give any Person, other than the Parties and their respective subsidiaries and Affiliates, any rights or remedies under or by reason of this Agreement or any transaction contemplated thereby.

11.12 Relationship of the Parties. Nothing contained in this Agreement shall be construed so as to operate or to place any Party or its Affiliates in the relationship of employee or agent or joint venture or legal representative of the other Party or its Affiliates and it is hereby expressly agreed and acknowledged that each of the Parties is an independent contracting Party which does not have the authority or power for or on behalf of the other Party to enter into any contract, to incur debts, to accept money, to assume obligations or to make any warranties or representations whatsoever.

11.13 Conflict. In the event of a conflict between the terms and conditions of this Agreement and any SLA or Schedule, the terms and conditions of this Agreement shall govern, unless an SLA or Schedule contains a conflicting term or condition expressly stated to take precedence over this Agreement in the relevant section of the applicable SLA or Schedule, in which case such term or condition of such SLA or Schedule shall govern. Nothing in this Agreement, express or implied, is intended to or shall be construed to modify, expand or limit in any way the provisions of the Separation Agreement, unless and to the limited extent that a provision of this Agreement expressly states that it shall govern. In the event of any conflict between any provision of this Agreement and any provision of the Separation Agreement, the applicable provision of the Separation Agreement shall govern and control, unless and to the limited extent that a provision of this Agreement expressly states that it shall govern.

11.14 Survival. Without prejudice to the survival of the provisions of any other agreements of the Parties, the Parties expressly agree that the provisions of Article V (Termination), Article VI (Limitation of Liability and Disclaimer of Warranties), Article VII (Indemnification), and this Article XI (Miscellaneous) shall survive any termination or expiration of this Agreement.

11.15 Supply of Services. The Parties acknowledge and agree that this Agreement is an agreement for the supply of services and is not an agreement for the sale of goods and shall not be governed by Article 2 of the Uniform Commercial Code or the United Nations International Convention for the Sale of Goods or any analogous statutory law purporting to apply to the sale of goods.

11.16 Further Assurances. Except as otherwise provided in this Agreement, the Parties shall, and shall cause their respective Affiliates to, use commercially reasonable efforts to take, or cause to be taken, all appropriate action, to do, or cause to be done, all things necessary, proper or advisable under applicable Law, and to execute and deliver such documents and other papers as may be required to carry out the provisions of this Agreement and to consummate and make effective the transactions contemplated by this Agreement.

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11.17 Compliance with Laws. In performing its obligations, each Party will comply with all federal, state, and local Laws, ordinances, tariffs, and regulations of Governmental Entities applicable to such Party.

11.18 No Recourse. Any claim or cause of action based upon, arising out of, or related to this Agreement may only be brought against the entities that are expressly named as parties hereto or thereto and then only with respect to the specific obligations of such party and subject to the terms, conditions and limitations set forth herein or therein.

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

**[SIGNATURE PAGES FOLLOW]**

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IN WITNESS WHEREOF, the Parties hereto have caused this Agreement to be executed as of the Effective Date.

**PROVIDER:**

**DUPONT SPECIALTY PRODUCTS USA, LLC**

By: /s/ Michael P. Heffernan

Name: Michael P. Heffernan

Title: President

[Signature Page to Transition Services Agreement]



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**PROVIDER AFFILIATE:**

**PERFORMANCE SPECIALTY PRODUCTS  
(SINGAPORE) PTE. LTD.**

By: /s/ Gulati Tanmeet Singh

Name: Gulati Tanmeet Singh

Title: Legal Representative

[Signature Page to Transition Services Agreement]

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**PROVIDER AFFILIATE:**

**DUPONT SPECIALTY PRODUCTS OPERATIONS  
SARL**

By: /s/ Aldjia Begriche

Name: Aldjia Begriche

Title: Managing Director

[Signature Page to Transition Services Agreement]

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**PROVIDER AFFILIATE:**

**DUPONT SPECIALTY PRODUCTS INDIA PRIVATE  
LIMITED**

By: /s/ Sanjeev Khetarpal

Name: Sanjeev Khetarpal

Title: Director

[Signature Page to Transition Services Agreement]

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**PROVIDER AFFILIATE:**

**DUPONT (SHENZHEN) INVESTMENT CO., LTD**

By: /s/ Chen ZhiDong

Name: Chen ZhiDong

Title: Legal Representative

[Signature Page to Transition Services Agreement]

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**RECIPIENT:**

**EKC ADVANCED ELECTRONICS USA, LLC**

By: /s/ Andrew R. Girardi

Name: Andrew R. Girardi

Title: Vice President

[Signature Page to Transition Services Agreement]

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**RECIPIENT AFFILIATE:**

**DU PONT CHINA HOLDING COMPANY LIMITED**

By: /s/ Emma Lu

Name: Emma Lu

Title: Legal Representative

[Signature Page to Transition Services Agreement]

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**RECIPIENT AFFILIATE:**

**DU PONT TAIWAN LIMITED**

By: /s/ Dennis Chen

Name: Dennis Chen

Title: President

[Signature Page to Transition Services Agreement]

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**RECIPIENT AFFILIATE:**

**EKC ADVANCED ELECTRONICS INDIA PRIVATE  
LIMITED**

By: /s/ Manish Disa

Name: Manish Disa

Title: Director

[Signature Page to Transition Services Agreement]



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**RECIPIENT AFFILIATE:**

**EKC ADVANCED ELECTRONICS 1 JAPAN  
KABUSHIKI KAISHA**

By: /s/ Shigenori Kobayashi

Name: Shigenori Kobayashi

Title: President

[Signature Page to Transition Services Agreement]

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**RECIPIENT AFFILIATE:**

**EKC ADVANCED ELECTRONICS KOREA LTD.**

By: /s/ Seung Kwan Yang

Name: Seung Kwan Yang

Title: Director

[Signature Page to Transition Services Agreement]

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**RECIPIENT AFFILIATE:**

**EKC ADVANCED ELECTRONICS SINGAPORE PTE.  
LTD.**

By: /s/ Wong Choon Hee James

Name: Wong Choon Hee James

Title: Director

[Signature Page to Transition Services Agreement]

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**RECIPIENT AFFILIATE:**

**EKC ADVANCED ELECTRONIC SOLUTIONS SARL**

By: /s/ Christiaan van Hogendorp

Name: Christiaan van Hogendorp

Title: Manager

[Signature Page to Transition Services Agreement]

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**INTELLECTUAL PROPERTY CROSS-LICENSE AGREEMENT**

BY AND AMONG

**QNTITY ELECTRONICS, INC.**

AND

**DUPONT DE NEMOURS, INC.**

AND

**THE OTHER SIGNATORIES HERETO**

DATED AS OF NOVEMBER 1, 2025

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## TABLE OF CONTENTS

|                                                                  |    |
|------------------------------------------------------------------|----|
| ARTICLE I DEFINITIONS & INTERPRETATION                           | 1  |
| Section 1.1    General                                           | 1  |
| Section 1.2    References; Interpretation                        | 7  |
| ARTICLE II GRANTS OF RIGHTS                                      | 8  |
| Section 2.1    Licenses to ElectronicsCo                         | 8  |
| Section 2.2    Licenses to RemainCo                              | 9  |
| Section 2.3    Sublicenses                                       | 10 |
| Section 2.4    Third Party Rights                                | 10 |
| Section 2.5    Reservation of Rights                             | 11 |
| Section 2.6    Retention and Transfer of Materials               | 11 |
| Section 2.7    Tax Treatment                                     | 12 |
| ARTICLE III OWNERSHIP; PROSECUTION, MAINTENANCE AND ENFORCEMENT  | 12 |
| Section 3.1    Ownership                                         | 12 |
| Section 3.2    No Additional Obligations                         | 13 |
| ARTICLE IV INDEMNIFICATION; DISCLAIMERS; LIMITATION OF LIABILITY | 13 |
| Section 4.1    Indemnification                                   | 13 |
| Section 4.2    Indemnification Procedures                        | 13 |
| Section 4.3    Disclaimer of Representations and Warranties      | 13 |
| Section 4.4    Limitation of Liability                           | 14 |
| Section 4.5    Limited Liability Exclusions                      | 14 |
| ARTICLE V CONFIDENTIALITY                                        | 14 |
| Section 5.1    Confidentiality                                   | 14 |
| ARTICLE VI TERM                                                  | 14 |
| Section 6.1    Term                                              | 14 |
| ARTICLE VII MISCELLANEOUS                                        | 15 |
| Section 7.1    Complete Agreement; Construction                  | 15 |
| Section 7.2    Counterparts                                      | 15 |
| Section 7.3    Notices                                           | 15 |
| Section 7.4    Waivers                                           | 16 |
| Section 7.5    Amendments                                        | 16 |
| Section 7.6    Assignment                                        | 16 |
| Section 7.7    Successors and Assigns                            | 17 |
| Section 7.8    Affiliates                                        | 17 |
| Section 7.9    Third Party Beneficiaries                         | 17 |
| Section 7.10   Title and Headings                                | 17 |
| Section 7.11   Schedules                                         | 17 |
| Section 7.12   Governing Law                                     | 17 |

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|              |                                    |    |
|--------------|------------------------------------|----|
| Section 7.13 | Specific Performance               | 17 |
| Section 7.14 | Severability                       | 18 |
| Section 7.15 | No Duplication; No Double Recovery | 18 |
| Section 7.16 | Dispute Resolution                 | 18 |
| Section 7.17 | Bankruptcy                         | 18 |
| Section 7.18 | Supplemental Terms                 | 18 |

## **SCHEDULES**

|                   |                                          |
|-------------------|------------------------------------------|
| <b>Schedule A</b> | ElectronicsCo Licensed Business Software |
| <b>Schedule B</b> | ElectronicsCo Licensed Copyrights        |
| <b>Schedule C</b> | ElectronicsCo Licensed Know-How          |
| <b>Schedule D</b> | ElectronicsCo Licensed Patents           |
| <b>Schedule E</b> | Excluded IP                              |
| <b>Schedule F</b> | RemainCo Licensed Business Software      |
| <b>Schedule G</b> | RemainCo Licensed Copyrights             |
| <b>Schedule H</b> | RemainCo Licensed Know-How               |
| <b>Schedule I</b> | RemainCo Licensed Patents                |
| <b>Schedule J</b> | RemainCo Licensed Standards              |
| <b>Schedule K</b> | Licensors and Corresponding Licensees    |
| <b>Schedule L</b> | Supplemental Sublicensing Terms          |
| <b>Schedule M</b> | Supplemental General Terms               |

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## INTELLECTUAL PROPERTY CROSS-LICENSE AGREEMENT

This INTELLECTUAL PROPERTY CROSS-LICENSE AGREEMENT (this “**Agreement**”), dated as of November 1, 2025 (the “**Effective Date**”), is entered into by and among, on the one hand, Qnity Electronics, Inc., a Delaware corporation (“**ElectronicsCo**”), the ElectronicsCo Licensors and the ElectronicsCo Licensees (collectively, the “**ElectronicsCo Parties**”), and on the other hand, DuPont de Nemours, Inc., a Delaware corporation (“**RemainCo**”), the RemainCo Licensors and the RemainCo Licensees (collectively, the “**RemainCo Parties**”) (each of the ElectronicsCo Parties and RemainCo Parties, a “**Party**” and together, the “**Parties**”).

**WHEREAS**, ElectronicsCo and RemainCo have entered into that certain Separation and Distribution Agreement, dated as of November 1, 2025 (the “**Separation Agreement**”), pursuant to which RemainCo is being separated into two separate, publicly traded companies, one for each of (a) the ElectronicsCo Business, which shall be owned and conducted, directly or indirectly, by ElectronicsCo, and (b) the RemainCo Business, which shall be owned and conducted, directly or indirectly, by RemainCo;

**WHEREAS**, as of and following the Distribution Date, each Party and its Affiliates will have rights to certain Intellectual Property related to the other Party’s business, including the RemainCo Business and the ElectronicsCo Business, as applicable; and

**WHEREAS**, in connection with the Separation Agreement, the RemainCo Licensors wish to grant to the ElectronicsCo Licensees, and the ElectronicsCo Licensors wish to grant to the RemainCo Licensees, a license and other rights to certain of such Intellectual Property, in each case, as and to the extent set forth herein.

**NOW, THEREFORE**, in consideration of the foregoing and the mutual agreements, provisions and covenants contained in this Agreement, the Parties hereby agree as follows:

### ARTICLE I **DEFINITIONS & INTERPRETATION**

Section 1.1 General. As used in this Agreement, the following terms shall have the meanings set forth in this Section 1.1. Capitalized terms that are not defined in this Agreement shall have the meanings set forth in the Separation Agreement.

(a) “**Affiliate**” means, when used with respect to a specified Person, a Person that directly or indirectly, through one or more intermediaries, controls, is controlled by, or is under common control with such specified Person. For the purposes of this definition, “control” (including the terms “controlled by” and “under common control with”), when used with respect to any specified Person shall mean the possession, directly or indirectly, of the power to direct or cause the direction of the management and policies of such Person, whether through the ownership of voting securities or other interests, by Contract or otherwise. It is expressly agreed that no Party or member of either Group shall be deemed to be an Affiliate of the other Party or member of such other Party’s Group solely by reason of having one or more directors in common or by reason of having been under common control of RemainCo or RemainCo’s stockholders prior to, or in case of ElectronicsCo’s stockholders, after the Effective Date.



(b) “**Control**” means, with respect to any Intellectual Property, (i) such Intellectual Property is owned by the applicable Person, and (ii) such Person has the ability to grant a license or other rights in, to and under such Intellectual Property on the terms and conditions set forth herein (other than pursuant to a license or other rights granted pursuant to this Agreement) without violating any applicable Law or any Contract entered into as of or prior to the Effective Date between such Person or any of its Affiliates, on the one hand, and any Third Party, on the other hand, without needing to make payments to a Third Party, and without violating any Contract between such Person or any of its Affiliates, on the one hand, and any Third Party, on the other hand existing at the time such Party would be first required hereunder to grant the other Party such license or other rights.

(c) “**Copyrights**” means copyrightable works, copyrights (including in product label or packaging artwork or templates), moral rights, mask work rights, database rights and design rights, in each case, whether or not registered, and registrations and applications for registration thereof.

(d) “**Cover**” means, with respect to any Patent, in the absence of a license granted under an unexpired claim of such Patent, which claim has not been adjudicated to be invalid or unenforceable by a final, binding decision of a court or other Governmental Entity of competent jurisdiction that is unappealable or unappealed within the time permitted for appeal (or if such Patent is a patent application, a claim in such patent application if such patent application were to issue as a patent), the practice of the applicable invention or technology, or performance of the applicable process, would infringe such claim. For clarity, and by way of example, an issued Patent Covers a product if, in the absence of a license granted under such a claim of such Patent, making, using, selling, offering for sale, importing or exporting such product infringes such claim.

(e) “**ElectronicsCo Business**” means the following lines of business (whether covered independently or in association with one or more third parties through a partnership, joint venture or other mutual enterprise), in each case as conducted prior to the Distribution Date by any member of the ElectronicsCo Group or RemainCo Group (or any of their respective predecessors): Semiconductor Technologies (which, for avoidance of doubt, includes Chemical Mechanical Planarization Technologies (CMPT); Lithography; Chemical Mechanical Planarization (CMP) Slurries; Displays HDM/PI; Organic Light Emitting Diodes (OLEDs); Display Materials; Advanced Clean Technologies; and Kalrez®) and Interconnect Solutions (which, for avoidance of doubt, includes LED Silicones; Metalization and Imaging; Advanced Packaging (APT); Semi Packaging Silicones; Laminates; Films; Laird Performance Materials; and Electronic Polymers).

(f) “**ElectronicsCo Field**” means, subject to **Schedule I**, the field of the ElectronicsCo Business as conducted as of immediately prior to the Effective Date and natural evolutions thereof.

(g) “**ElectronicsCo Licensed Business Software**” means all Software, to the extent Controlled by ElectronicsCo or any of its Affiliates as of the Effective Date, that is used or held for use in the conduct of the RemainCo Business as of immediately prior to the Effective Date, including the Software set forth on **Schedule A**, only if and to the extent that neither RemainCo nor any of its Affiliates have been granted a license or other rights to use such Software under the Separation Agreement or any other Ancillary Agreement. Notwithstanding the foregoing, “ElectronicsCo Licensed Business Software” expressly excludes any and all Excluded IP.

(h) “**ElectronicsCo Licensed Copyrights**” means any and all Copyrights, to the extent Controlled by ElectronicsCo or any of its Affiliates as of the Effective Date, that are used or held for use in the conduct of the RemainCo Business as of immediately prior to the Effective Date, including the Copyrights set forth on **Schedule B**. Notwithstanding the foregoing, “ElectronicsCo Licensed Copyrights” expressly excludes any and all (i) Know-How, (ii) Software and (iii) Excluded IP.

(i) “**ElectronicsCo Licensed IP**” means the ElectronicsCo Licensed Patents, the ElectronicsCo Licensed Know-How and the ElectronicsCo Licensed Copyrights.

(j) “**ElectronicsCo Licensed Know-How**” means any and all Know-How, to the extent Controlled by ElectronicsCo or any of its Affiliates as of the Effective Date, that is used or held for use in the conduct of the RemainCo Business as of immediately prior to the Effective Date, including the Know-How set forth on **Schedule C**. Notwithstanding the foregoing, “ElectronicsCo Licensed Know-How” expressly excludes any and all (i) Copyrights, (ii) Software and (iii) Excluded IP.

(k) “**ElectronicsCo Licensed Patents**” means any and all: (i) Patents set forth on **Schedule D** to the extent Controlled by ElectronicsCo or any of its Affiliates as of the Effective Date, (ii) to the extent Controlled by ElectronicsCo or any of its Affiliates as of or following the Effective Date, continuations, divisionals, renewals, provisionals, continuations-in-part, patents of addition, restorations, substitutions, extensions, supplementary protection certificates, reissues and reexaminations of, and all other Patents that claim priority to any Patents described in the foregoing clause (i), and foreign equivalents thereof, in each case, solely to the extent the claims of such items described in this clause (ii) are supported by any Patents described in the foregoing clause (i), and (iii) to the extent Controlled by ElectronicsCo or any of its Affiliates following the Effective Date, Patents filed following the Effective Date to the extent such Patents Cover any ElectronicsCo Licensed Know-How. Notwithstanding the foregoing, “ElectronicsCo Licensed Patents” expressly excludes any and all Excluded IP.

(l) “**ElectronicsCo Licensees**” means those entities set forth on **Schedule K** as ElectronicsCo Licensees.

(m) “**ElectronicsCo Licensors**” means those entities set forth on **Schedule K** as ElectronicsCo Licensors.

(n) “**Engineering Standards**” means standards, protocols, processes and policies, including the engineering guidelines, for designing, constructing, maintaining and operating facilities, in each case, including all Know-How and Copyrights to the extent contained therein.

(o) “**Excluded IP**” means (i) Registration Data and Governmental Approvals (as such terms are defined in the Regulatory Matters Agreement), (ii) the TMODS Systems (as such term is defined in the TMODS License) (including, for clarity, the object code and source code thereof), together with all process operator training simulator data files which contain process and control information for simulating the operation of plants associated with the TMODS Systems, and all documentation therefor, (iii) Trademarks, (iv) IT Assets (excluding Software), (v) any Intellectual Property licensed or otherwise provided under the other Ancillary Agreements (excluding the Separation Agreement), and (vi) the Intellectual Property set forth on **Schedule E**. Notwithstanding the foregoing, “Excluded IP” does not include any of the foregoing to the extent expressly set forth on **Schedule A, Schedule B, Schedule C, Schedule D, Schedule F, Schedule G, Schedule H, Schedule I or Schedule J**.

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(p) “**Intellectual Property**” means any and all rights (created or arising in any jurisdiction anywhere in the world, whether statutory, common law, or otherwise) to the extent arising from or related to intellectual property, including (i) Patents, (ii) Trademarks, (iii) Copyrights, (iv) rights in Know-How, (v) rights in Software, (vi) all other intellectual property or proprietary rights, and (vii) all registrations and applications for registration of any of the foregoing clauses (i) through (vi).

(q) “**Internal Separation Transactions**” means the transactions between and among Subsidiaries of RemainCo pursuant to which the ElectronicsCo Business and the RemainCo Business were separated.

(r) “**Know-How**” means all confidential or proprietary information, including trade secrets, know-how and technical data, including any that comprise financial, business, scientific, technical, economic or engineering information and instructions, including any confidential or proprietary raw materials, material lists, raw material specifications, manufacturing or production files or specifications, plans, drawings, blueprints, design tools, quality assurance and control procedures, simulation capability, research data, manuals, compilations, reports, including technical reports and research reports, analyses, formulas, formulations, designs, prototypes, methods, techniques, processes, rights in research, development, manufacturing, financial, marketing and business data, pricing and cost information, customer and supplier lists and information, procedures, inventions and invention disclosure documents, as well as Plant Operating Documents, and Engineering Models and Databases, in each case, other than Patents.

(s) “**Licensed IP**” means (i) with respect to the licenses granted to RemainCo hereunder, the ElectronicsCo Licensed IP and the ElectronicsCo Licensed Business Software, and (ii) with respect to the licenses granted to ElectronicsCo hereunder, the RemainCo Licensed IP, the RemainCo Licensed Business Software and the RemainCo Licensed Standards.

(t) “**Licensee**” means (i) RemainCo and the RemainCo Licensees, as applicable, with respect to the ElectronicsCo Licensed IP and the ElectronicsCo Licensed Business Software, and (ii) ElectronicsCo and the ElectronicsCo Licensees, as applicable, with respect to the RemainCo Licensed IP, the RemainCo Licensed Business Software and the RemainCo Licensed Standards.

(u) “**Licensor**” means (i) RemainCo and the RemainCo Licensors, as applicable, with respect to the RemainCo Licensed IP, the RemainCo Licensed Business Software and the RemainCo Licensed Standards, and (ii) ElectronicsCo and the ElectronicsCo Licensors, as applicable, with respect to the ElectronicsCo Licensed IP and the ElectronicsCo Licensed Business Software.

(v) “**Materials**” means those written, electronic, computerized, digital or other similar tangible or intangible materials or media to the extent comprising, embodying or containing any RemainCo Licensed Know-How, RemainCo Licensed Copyrights, RemainCo Licensed Business Software, RemainCo Licensed Standards, ElectronicsCo Licensed Know-How, ElectronicsCo Licensed Copyrights or ElectronicsCo Licensed Business Software. For clarity, Materials for RemainCo Licensed Business Software and ElectronicsCo Licensed Business Software include the source code and documentation for the most current version thereof and any previous versions thereof in use in the conduct of the RemainCo Business (with respect to the ElectronicsCo Licensed Business Software) or the ElectronicsCo Business (with respect to the RemainCo Licensed Business Software) as of immediately prior to the Effective Date.

(w) “**Patents**” means patents, patent applications (including patents issued thereon) and statutory invention registrations, patents of importation, patents of improvement, certificates of addition, design patents and utility models, including reissues, divisionals, continuations, continuations-in-part, extensions, renewals and reexaminations thereof.

(x) “**Regulatory Matters Agreement**” means that certain Regulatory Matters Agreement, dated as of the Effective Date, by and between RemainCo and ElectronicsCo (or their respective Affiliates).

(y) “**RemainCo Business**” means all businesses, operations and activities (whether covered independently or in association with one or more third parties through a partnership, joint venture or other mutual enterprise) other than the ElectronicsCo Business, in each case as conducted prior to the Distribution Date by any member of the ElectronicsCo Group or RemainCo Group (or any of their respective predecessors), including the following lines of business: Healthcare (which, for avoidance of doubt, includes Liveo™; Spectrum Medical; Donatelle Plastics; and Tyvek® (excluding HomeWrap™)); Diversified Industrials (which, for avoidance of doubt, includes Spectrum Foods and Industrial (F&I); Auto Adhesives; Multibase®; Tedlar®; Molykote®; Vespel®; Artistri®; Cyrel® Packaging Graphics; Authentication Systems; Tyvek® HomeWrap™; Typar®; Tychem®; Hybrid Membrane Technologies (HMT™); Performance Building Solutions; Corian® Decorative Surfaces; and the meta-aramid and para-aramid fiber, paper, pulp, yarn, fibrils, rope, floc, fabrics, staple and pressboard businesses (which, for the avoidance of doubt, includes Nomex®, Kevlar®, Kevlar® EXO™ and Tensylon® product lines)); and Water Solutions (which, for avoidance of doubt, includes Ultrafiltration; Reverse Osmosis Membranes; Ion Exchange; Systems; and Filtration).

(z) “**RemainCo Environmental, Health and Safety Standards**” means standards, protocols, processes and policies, including documents, databases (together with the data contained therein), training materials and other supporting tools, in the following RemainCo corporate EHS competency areas (as each is understood and used by the Parties as of the Effective Date): EHS Systems and Risk Management, Environmental, Workplace Safety, Contractor Safety, Occupational Health, Distribution Safety, Electrical Safety, Fire Safety, Emergency Response and Process Safety, in each case, including all Know-How and Copyrights to the extent contained therein.

(aa) “**RemainCo Field**” means the field of the RemainCo Business as conducted as of immediately prior to the Effective Date and natural evolutions thereof.

(bb) “**RemainCo Licensed Business Software**” means all Software, to the extent Controlled by RemainCo or any of its Affiliates as of the Effective Date, that is used or held for use in the conduct of the ElectronicsCo Business as of immediately prior to the Effective Date, including the Software set forth on **Schedule F**, only if and to the extent that neither ElectronicsCo nor any of its Affiliates have been granted a license or other rights to use such Software under the Separation Agreement or any other Ancillary Agreement. Notwithstanding the foregoing, “RemainCo Licensed Business Software” expressly excludes any and all Excluded IP.

(cc) “**RemainCo Licensed Copyrights**” means any and all Copyrights, to the extent Controlled by RemainCo or any of its Affiliates as of the Effective Date, that are used or held for use in the conduct of the ElectronicsCo Business as of immediately prior to the Effective Date, including the Copyrights set forth on **Schedule G**. Notwithstanding the foregoing, “RemainCo Licensed Copyrights” expressly excludes any and all (i) Know-How, (ii) Engineering Standards, (iii) RemainCo Environmental, Health and Safety Standards, (iv) Software and (v) Excluded IP.

(dd) “**RemainCo Licensed IP**” means the RemainCo Licensed Patents, the RemainCo Licensed Know-How and the RemainCo Licensed Copyrights.

(ee) “**RemainCo Licensed Know-How**” means any and all Know-How, to the extent Controlled by RemainCo or any of its Affiliates as of the Effective Date, that is used or held for use in the conduct of the ElectronicsCo Business as of immediately prior to the Effective Date, including the Know-How set forth on **Schedule H**. Notwithstanding the foregoing, “RemainCo Licensed Know-How” expressly excludes any and all (i) Copyrights, (ii) Engineering Standards, (iii) RemainCo Environmental, Health and Safety Standards, (iv) Software and (v) Excluded IP.

(ff) “**RemainCo Licensed Patents**” means any and all: (i) Patents set forth on **Schedule I** to the extent Controlled by RemainCo or any of its Affiliates as of the Effective Date, (ii) to the extent Controlled by RemainCo or any of its Affiliates as of or following the Effective Date, continuations, divisionals, renewals, provisionals, continuations-in-part, patents of addition, restorations, substitutions, extensions, supplementary protection certificates, reissues and reexaminations of, and all other Patents that claim priority to any Patents described in the foregoing clause (i), and foreign equivalents thereof, in each case, solely to the extent the claims of such items described in this clause (ii) are supported by any Patents described in the foregoing clause (i), and (iii) to the extent Controlled by RemainCo or any of its Affiliates following the Effective Date, Patents filed following the Effective Date to the extent such Patents Cover any RemainCo Licensed Know-How. Notwithstanding the foregoing, “RemainCo Licensed Patents” expressly excludes any and all Excluded IP.

(gg) “**RemainCo Licensed Standards**” means those RemainCo Environmental, Health and Safety Standards and Engineering Standards set forth on **Schedule J**, each, to the extent (i) the Intellectual Property therein is Controlled by RemainCo or any of its Affiliates as of the Effective Date and (ii) actually used in the conduct of the ElectronicsCo Business as of immediately prior to the Effective Date. Notwithstanding the foregoing, “RemainCo Licensed Standards” expressly excludes any and all Excluded IP.

(hh) “**RemainCo Licensees**” means those entities set forth on **Schedule K** as RemainCo Licensees.

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(ii) “**RemainCo Licensors**” means those entities set forth on **Schedule K** as RemainCo Licensors.

(jj) “**Software**” means all computer programs (whether in source code, object code, or other form), software implementations of algorithms, and related documentation, including flowcharts and other logic and design diagrams, technical, functional and other specifications, and user and training materials to the extent related to any of the foregoing.

(kk) “**Third Party**” means any Person other than RemainCo, ElectronicsCo and their respective Affiliates.

(ll) “**Third Party Action**” means (i) any Third Party activities that constitute, or would reasonably be expected to constitute, an infringement, misappropriation or other violation of any Licensed IP, or (ii) any Third Party allegations of invalidity or unenforceability of any Licensed IP.

(mm) “**Third Party Payments**” means any and all obligations on the part of Licensor or any of its Affiliates to pay royalties, sublicense fees, milestones or other amounts to Third Parties pursuant to Contracts existing as of the Effective Date to which Licensor or any of its Affiliates is a party or is otherwise bound, in each case, to the extent that such obligation to pay arises from, or is a result of the grant to or exercise by Licensee, its Affiliates or any Sublicensees of, any license, sublicense or other right granted hereunder.

(nn) “**TMODS License**” means that certain DuPont™ TMODS Dynamic Process Simulation Software Agreement, dated as of the Effective Date, by and between RemainCo and ElectronicsCo (or their respective Affiliates).

(oo) “**Trademarks**” means trademarks, certification marks, service marks, trade names, domain names, favicons, social media addresses, service names, trade dress and logos, including all goodwill associated therewith, in each case whether or not registered, and registrations and applications for registration thereof, and all reissues, extensions and renewals of any of the foregoing.

(pp) “**Umbrella Secrecy Agreement**” means that certain Umbrella Secrecy Agreement, dated as of the Effective Date, by and between RemainCo and ElectronicsCo (or their respective Affiliates).

Section 1.2 References; Interpretation. For the purposes of this Agreement, (a) words in the singular shall be held to include the plural and vice versa, and words of one gender shall be held to include the other gender as the context requires; (b) references to the terms Article, Section, paragraph, clause and Schedule are references to the Articles, Sections, paragraphs, clauses and Schedules to this Agreement unless otherwise specified; (c) the terms “hereof”, “herein”, “hereby”, “hereto”, and derivative or similar words refer to this entire Agreement, including the Schedules hereto; (d) references to “\$” shall mean U.S. dollars; (e) the word “including” and words of similar import when used in this Agreement shall mean “including without limitation”, unless otherwise specified; (f) the word “or” shall not be exclusive (unless the context indicates otherwise); (g) references to “written” or “in writing” include in electronic form; (h) the Parties have each participated in the negotiation and drafting of this Agreement, and except as otherwise

stated herein, if an ambiguity or question of interpretation should arise, this Agreement shall be construed as if drafted jointly by the Parties and no presumption or burden of proof shall arise favoring or burdening any Party by virtue of the authorship of any of the provisions in this Agreement; (i) a reference to any Person includes such Person's successors and permitted assigns; (j) any reference to "days" means calendar days unless Business Days are expressly specified; (k) when calculating the period of time before which, within which or following which any act is to be done or step taken pursuant to this Agreement, the date that is the reference date in calculating such period shall be excluded and if the last day of such period is not a Business Day, the period shall end on the next succeeding Business Day; (l) any statute or Contract defined or referred to herein means such statute or Contract as from time to time amended, modified or supplemented, unless otherwise specifically indicated; (m) the use of the phrases "the date of this Agreement", "the date hereof", "of even date herewith" and terms of similar import shall be deemed to refer to the date set forth in the preamble to this Agreement; (n) the phrase "ordinary course of business" shall be deemed to be followed by the words "consistent with past practice" whether or not such words actually follow such phrase; (o) where a word or phrase is defined herein, each of its other grammatical forms shall have a corresponding meaning; and (p) any consent given by any Party pursuant to this Agreement shall be valid only if contained in a written instrument signed by such Party. Unless the context requires otherwise, references in this Agreement to "ElectronicsCo" shall also be deemed to refer to the applicable member of the ElectronicsCo Group, references to "RemainCo" shall also be deemed to refer to the applicable member of the RemainCo Group and, in connection therewith, any references to actions or omissions to be taken, or refrained from being taken, as the case may be, by ElectronicsCo or RemainCo shall be deemed to require ElectronicsCo or RemainCo, as the case may be, to cause the applicable members of the ElectronicsCo Group or the RemainCo Group, respectively, to take, or refrain from taking, any such action.

## **ARTICLE II**

### **GRANTS OF RIGHTS**

#### **Section 2.1 Licenses to ElectronicsCo.**

(a) License to RemainCo Licensed IP. Subject to the terms and conditions of this Agreement, the RemainCo Licensors hereby grant, and RemainCo shall cause its Affiliates to grant, to the relevant ElectronicsCo Licensees, as set forth on **Schedule K**, an irrevocable, perpetual, royalty-free, fully paid-up, sublicensable (to the extent permitted in Section 2.3), transferable (subject to Section 7.6), worldwide, non-exclusive license in, to and under the RemainCo Licensed IP for any and all uses solely in the ElectronicsCo Field. For clarity, subject to the terms and conditions of this Agreement, the license set forth in this Section 2.1(a) shall include the right (i) to practice the RemainCo Licensed IP to make (including have made), use, sell, offer for sale, import and export any and all products and processes, in each case, within the ElectronicsCo Field, and (ii) as applicable, to use, practice, copy, perform, render, develop, improve, display, distribute, modify and make derivative works of the RemainCo Licensed IP and any tangible embodiments thereof, in each case, within the ElectronicsCo Field.

(b) License to RemainCo Licensed Business Software. Subject to the terms and conditions of this Agreement, the RemainCo Licensors hereby grant, and RemainCo shall cause its Affiliates to grant, to the relevant ElectronicsCo Licensees, as set forth on **Schedule K**, an irrevocable, perpetual, royalty-free, fully paid-up, sublicensable (to the extent permitted in Section 2.3), transferable (subject to Section 7.6), worldwide, non-exclusive license to the RemainCo Licensed Business Software for any and all uses solely in the ElectronicsCo Field.

(c) License to RemainCo Licensed Standards.

(i) Subject to the terms and conditions of this Agreement, the RemainCo Licensors hereby grant, and RemainCo shall cause its Affiliates to grant, to the relevant ElectronicsCo Licensees, as set forth on **Schedule K**, an irrevocable, perpetual, royalty-free, fully paid-up, sublicensable (to the extent permitted in Section 2.3), transferable (subject to Section 7.6), worldwide, non-exclusive license in, to and under the RemainCo Licensed Standards (including, without limiting and subject to Section 2.1(c)(ii), rights to use, practice, perform, render, develop, improve, display, distribute, modify and make derivative works of the same), solely for use in the ElectronicsCo Field at any facility (including if such facility is modified or expanded) where the ElectronicsCo Assets are situated as of the Effective Date or any substantial replication of such facilities (but not at facilities acquired after the Effective Date or the facilities of any permitted Third Party successor or assignee in accordance with Section 7.6 hereof) and only to the extent necessary to maintain and operate the ElectronicsCo Assets at such facility.

(ii) Notwithstanding anything to the contrary herein, the RemainCo Licensed Standards shall (A) not include any other Know-How (including any standards, tools and documents) referenced but not specifically and fully disclosed, explicated and set forth therein, (B) be implemented and used by ElectronicsCo subject to its own training with respect thereto (and RemainCo shall have no obligation hereunder with respect to any such training), and (C) be destroyed by ElectronicsCo, in relevant part, upon ElectronicsCo's good faith determination that the RemainCo Licensed Standards have become obsolete or superseded by any other standard, protocol, policy or process (in which event, such RemainCo Licensed Standards to such extent shall no longer be licensed to ElectronicsCo hereunder). ElectronicsCo shall not remove any proprietary markings, confidentiality notices or similar labels on the RemainCo Licensed Standards or the documentation embodying such RemainCo Licensed Standards. For clarity, the RemainCo Licensed Standards shall not be subject to any updates hereunder by RemainCo or its Affiliates (even if RemainCo or its Affiliates update the same for their own use). The Parties acknowledge that, from time to time, applicable Law may conflict with and supersede aspects of the RemainCo Licensed Standards, and RemainCo shall have no Liability to ElectronicsCo in connection therewith.

Section 2.2 Licenses to RemainCo.

(a) License to ElectronicsCo Licensed IP. Subject to the terms and conditions of this Agreement, the ElectronicsCo Licensors hereby grant, and ElectronicsCo shall cause its Affiliates to grant, to the relevant RemainCo Licensees, as set forth on **Schedule K**, an irrevocable, perpetual, royalty-free, fully paid-up, sublicensable (to the extent permitted in Section 2.3), transferable (subject to Section 7.6), worldwide, non-exclusive license in, to and under the ElectronicsCo Licensed IP for any and all uses solely in the RemainCo Field. For clarity, subject to the terms and conditions of this Agreement, the license set forth in this Section 2.2(a) shall include the right (i) to practice the ElectronicsCo Licensed IP to make (including have made), use, sell, offer for sale, import and export any and all products and processes, in each case, within the RemainCo Field, and (ii) as applicable, to use, practice, copy, perform, render, develop, improve, display, distribute, modify and make derivative works of the ElectronicsCo Licensed IP and any tangible embodiments thereof, in each case, within the RemainCo Field.



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(b) License to ElectronicsCo Licensed Business Software. Subject to the terms and conditions of this Agreement, the ElectronicsCo Licensors hereby grant, and ElectronicsCo shall cause its Affiliates to grant, to the relevant RemainCo Licensees, as set forth on **Schedule K**, an irrevocable, perpetual, royalty-free, fully paid-up, sublicensable (to the extent permitted in Section 2.3), transferable (subject to Section 7.6), worldwide, non-exclusive license to the ElectronicsCo Licensed Business Software for any and all uses solely in the RemainCo Field.

Section 2.3 Sublicenses. Licensee may sublicense the licenses and rights granted to Licensee under Section 2.1 or Section 2.2 (as applicable) through multiple tiers (a) to its Affiliates and (b) to Third Parties in the ordinary course of business for the benefit of such Licensee or its Affiliates (and not for the independent use of such licenses and rights by or for the benefit of such Third Parties), in each case, except as otherwise set forth in **Schedule L** (each such Affiliate or Third Party, a “**Sublicensee**”). Each sublicense granted under the Licensed IP shall be granted pursuant to an agreement which does not conflict with the terms and conditions of this Agreement. For clarity, granting a sublicense shall not relieve Licensee of any obligations hereunder and Licensee shall cause each of its Sublicensees to comply, and shall remain responsible for its Sublicensees’ compliance, with the terms hereof applicable to Licensee.

Section 2.4 Third Party Rights.

(a) Notwithstanding anything to the contrary in this Agreement, the Parties’ rights and obligations set forth in this Agreement (including the licenses granted under Section 2.1 and Section 2.2, and the rights and obligations of the Parties under Section 3.2) shall be subject to the terms of any Contracts with a Third Party relating to the Licensed IP, which Contracts exist as of the Effective Date and to which Licensor or any of its Affiliates is a party or otherwise bound. To the extent that, as a result of such rights of or obligations owed to a Third Party under such Contracts, any license or other rights granted hereunder: (i) may not be granted without the consent of or payment of a fee or other consideration to such Third Party or any other Third Party under such Contracts; or (ii) will cause Licensor or any of its Affiliates to be in breach of any of its or their obligations to any Third Party, the applicable licenses and other rights granted hereunder shall only be granted to the extent such consent has been obtained or such fee or other consideration has been paid (it being understood that Licensor shall have no obligation to agree to make, or make, any payments or other concessions, except to the extent expressly required under the Separation Agreement or any Ancillary Agreement other than this Agreement, or if Licensee agrees to reimburse Licensor for such payments). Notwithstanding anything to the contrary in this Section 2.4(a), Licensee shall be deemed to not be in breach of this Agreement only if, and for such time that, Licensee has not been notified by Licensor or any of its Affiliates, or otherwise does not have reasonable knowledge, of such rights of or obligations owed to such Third Party.

(b) Third Party Payments, if any, with respect to the Licensed IP shall be Licensee's sole responsibility. Licensee shall pay the Third Party Payments directly to the applicable Third Party; provided, that if such Third Party does not permit Licensee to pay such Third Party Payments to such Third Party directly (whether pursuant to the applicable Contract or otherwise), the Parties shall cooperate in good faith to ensure that such Third Party Payments are paid by Licensee to Licensor in a manner that ensures Licensor's payment thereof is in compliance with the obligations to the applicable Third Party. If either Party becomes aware of any Third Party Payments, it shall reasonably promptly notify the other Party in writing, and notwithstanding anything to the contrary in this Section 2.4(b), Licensee shall be deemed to not be in breach of this Agreement only if, and for such time that, Licensee has not been notified by Licensor or any of its Affiliates, or otherwise does not have reasonable knowledge, of the applicable Third Party Payments; provided, that upon learning of such Third Party Payments, Licensee shall promptly pay such Third Party Payments to the applicable Third Party directly (or such other Person as reasonably directed by Licensor) to the extent such Third Party Payments are past due (or if Licensor has, in its sole discretion, elected to pay such amounts, would be past due if Licensor had not paid such amounts).

Section 2.5 Reservation of Rights. Except as expressly provided in the Separation Agreement or any other Ancillary Agreement (including this Agreement), each Party reserves all of its and its Affiliates' rights (including rights in and to Intellectual Property) not expressly licensed or otherwise granted hereunder. Without limiting the foregoing, this Agreement and the licenses and rights granted herein do not, and shall not be construed to, confer any rights upon either Party or its Affiliates or Sublicensees by implication, estoppel, or otherwise as to any of the other Party's or its Affiliates' other Intellectual Property (including, for clarity, any Excluded IP).

Section 2.6 Retention and Transfer of Materials.

(a) If RemainCo or ElectronicsCo (the "**Requesting Party**") reasonably believes that any Materials are in the possession or control of the other Party or any of its Affiliates (the "**Holding Party**") and such Materials are not in the possession or control of the Requesting Party or any of its Affiliates, and the Requesting Party makes a request in writing during the two (2)-year period following the Effective Date that the Holding Party deliver the Materials (or copy thereof) to the Requesting Party, the Holding Party shall review such request and, to the extent in the possession or control of the Holding Party or any of its Affiliates, deliver the Materials (or copy thereof) to the Requesting Party as promptly as reasonably practicable and in any event within thirty (30) Business Days of receiving such request from the Requesting Party; provided, that if the Holding Party reasonably believes that such request requires a longer period of review to determine if the request concerns the applicable Licensed IP or to locate the applicable Materials, the Holding Party shall be provided with a reasonable amount of additional time to review and provide such Materials and shall notify the Requesting Party in writing of the expected timeframe; provided, further, the Holding Party may redact any Information with respect to which the Requesting Party does not have a license or other right under the Separation Agreement, this Agreement or any of the other Ancillary Agreements. To the extent the request does not concern Materials, for clarity, the Holding Party shall not be required to deliver the applicable materials or media to the Requesting Party, but shall provide the Requesting Party with an explanation in reasonable detail of the basis of such determination and shall make itself and its relevant Affiliates available to discuss such determination in good faith with the Requesting Party.

(b) For clarity, and notwithstanding anything to the contrary herein, in no event shall the Holding Party be required to provide any written, electronic, computerized, digital or other tangible or intangible materials or media to the extent comprising, containing or reflecting any Licensed IP that has already been provided to, or is otherwise in the possession of, the Requesting Party (including as part of the Internal Reorganization).

#### Section 2.7 Tax Treatment.

(a) For U.S. federal income tax purposes, the grant of the licenses set forth in Section 2.1(a)-(c) shall be treated (i) to the extent the ElectronicsCo Licensee did not own, for U.S. federal income tax purposes, the RemainCo Licensed IP, RemainCo Licensed Business Software, or RemainCo Licensed Standards prior to the step of the Internal Separation Transaction pursuant to which the assets of the applicable RemainCo Licensor were transferred to such ElectronicsCo Licensee, as a transfer of property, from the applicable RemainCo Licensor, to the applicable ElectronicsCo Licensee, pursuant to the applicable step of the Internal Separation Transaction and (ii) to the extent the ElectronicsCo Licensee did own, for U.S. federal income tax purposes, the RemainCo Licensed IP, RemainCo Licensed Business Software, or RemainCo Licensed Standards prior to the step of the Internal Separation Transaction pursuant to which the assets of the applicable ElectronicsCo Licensee were transferred to such RemainCo Licensor, as a retention of such RemainCo Licensed IP, RemainCo Licensed Business Software, or RemainCo Licensed Standards by the ElectronicsCo Licensee.

(b) For U.S. federal income tax purposes, the grant of the licenses set forth in Section 2.2(a)-(b) shall be treated (i) to the extent the RemainCo Licensee did not own, for U.S. federal income tax purposes, the ElectronicsCo Licensed IP or ElectronicsCo Licensed Business Software prior to the step of the Internal Separation Transaction pursuant to which the assets of the applicable ElectronicsCo Licensor were transferred to such RemainCo Licensee, as a transfer of property, from the applicable ElectronicsCo Licensor, to the applicable RemainCo Licensee, pursuant to the applicable step of the Internal Separation Transaction and (ii) to the extent the RemainCo Licensee did own, for U.S. federal income tax purposes, the ElectronicsCo Licensed IP or ElectronicsCo Licensed Business Software prior to the step of the Internal Separation Transaction pursuant to which the assets of the applicable RemainCo Licensee were transferred to such ElectronicsCo Licensor, as a retention of such ElectronicsCo Licensed IP or ElectronicsCo Licensed Business Software by the RemainCo Licensee.

### ARTICLE III

#### **OWNERSHIP; PROSECUTION, MAINTENANCE AND ENFORCEMENT**

Section 3.1 Ownership. As between the Parties and their respective Affiliates, (a) RemainCo acknowledges and agrees that ElectronicsCo and its Affiliates own the ElectronicsCo Licensed IP and the ElectronicsCo Licensed Business Software licensed to the RemainCo Licensees hereunder, (b) ElectronicsCo acknowledges and agrees that RemainCo and its Affiliates own the RemainCo Licensed IP, RemainCo Licensed Business Software and the RemainCo Licensed Standards licensed to the ElectronicsCo Licensees hereunder, and (c) each Party acknowledges and agrees that neither Party, nor its Affiliates or Sublicensees, will acquire any ownership rights in the Licensed IP licensed to such Party or its Affiliates hereunder. To the extent that a Party or its Affiliates or Sublicensees (as applicable) is assigned or otherwise obtains ownership of any right, title or interest in or to any Intellectual Property in contravention of this Section 3.1, such Party hereby assigns, and shall cause its Affiliates and Sublicensees (as applicable) to assign, to the other Party (or to such Affiliate or Third Party designated by such other Party in writing) all such right, title and interest; provided, that for clarity, a successful claim under Section 2.6 of the Separation Agreement shall not be deemed to be in contravention of this Section 3.1.

Section 3.2 No Additional Obligations. As between the Parties, Licensor shall have the sole and exclusive right (but not the obligation), at Licensor's cost and expense, to (a) file, prosecute, maintain and defend all Patents within the Licensed IP with respect to which such Licensor or any of its Affiliates is granting a license to Licensee hereunder, and (b) control enforcement or defense against any Third Party Action of the Licensed IP that Licensor is granting a license to Licensee hereunder (including by bringing an Action or entering into settlement discussions). Without limiting the foregoing, this Agreement shall not obligate either Party to disclose to the other Party, or maintain, register, prosecute, pay for or offer to pay for (including by offering remuneration to any inventors), enforce, defend or otherwise manage any Intellectual Property, except to the extent expressly set forth herein.

#### **ARTICLE IV**

##### **INDEMNIFICATION; DISCLAIMERS; LIMITATION OF LIABILITY**

Section 4.1 Indemnification. Each Party (the "**Indemnifying Party**") shall indemnify, defend and hold harmless the other Party and its Affiliates, and its and their current, former and future respective directors, officers, employees and agents, and each of the heirs, executors, successors and assigns of any of the foregoing (each, an "**Indemnitee**" and collectively, the "**Indemnitees**") from and against any and all Indemnifiable Losses of the Indemnitees, to the extent relating to, arising out of or resulting from (a) the gross negligence or willful misconduct of the Indemnifying Party, any of its Affiliates, or its or their Sublicensees, agents or subcontractors, in the performance of this Agreement, (b) material breach by the Indemnifying Party of this Agreement, or (c) Third Party claims arising from exercise by the Indemnifying Party or its Affiliates or Sublicensees of the licenses and rights granted to it hereunder, in each case (in respect of the foregoing clauses (a)-(c)), except to the extent that such Indemnifiable Losses are subject to indemnification by the other Party pursuant to this Section 4.1.

Section 4.2 Indemnification Procedures. The indemnification procedures set forth in Sections 8.4 through 8.8 of the Separation Agreement shall apply to the matters indemnified hereunder, *mutatis mutandis*.

Section 4.3 Disclaimer of Representations and Warranties. EXCEPT TO THE EXTENT EXPRESSLY SET FORTH IN THE SEPARATION AGREEMENT, THIS AGREEMENT OR THE OTHER ANCILLARY AGREEMENTS, THE PARTIES DISCLAIM AND WAIVE ANY AND ALL OTHER REPRESENTATIONS OR WARRANTIES, EXPRESS OR IMPLIED (INCLUDING WITH REGARD TO QUALITY, PERFORMANCE, NON-INFRINGEMENT, NON-DILUTION, VALIDITY, COMMERCIAL UTILITY, MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE), AND EACH PARTY ACKNOWLEDGES AND AGREES IT HAS NOT AND WILL NOT RELY ON ANY SUCH REPRESENTATIONS OR WARRANTIES EXCEPT THOSE EXPRESSLY SET FORTH IN THE SEPARATION AGREEMENT, THIS AGREEMENT OR THE OTHER ANCILLARY AGREEMENTS. WITHOUT LIMITING THE FOREGOING, THE REMAINCO PARTIES AND THE ELECTRONICSCO PARTIES MAKE NO REPRESENTATIONS OR WARRANTIES WHATSOEVER REGARDING THE EXISTENCE OR ABSENCE OF FAULTS, IF ANY, IN THE LICENSED IP, AND THE REMAINCO PARTIES AND THE ELECTRONICSCO PARTIES ACKNOWLEDGE AND AGREE THAT THEY HAVE NOT AND WILL NOT RELY ON ANY SUCH REPRESENTATIONS OR WARRANTIES.

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Section 4.4 Limitation of Liability. NOTWITHSTANDING ANYTHING TO THE CONTRARY IN THIS AGREEMENT (INCLUDING THIS ARTICLE IV, BUT SUBJECT TO SECTION 4.5), IN NO EVENT SHALL THE REMAINCO PARTIES, THE ELECTRONICSCO PARTIES OR THEIR RESPECTIVE AFFILIATES BE LIABLE, WHETHER IN CONTRACT, TORT (INCLUDING NEGLIGENCE AND STRICT LIABILITY) OR OTHERWISE, AT LAW OR IN EQUITY, FOR ANY PUNITIVE, EXEMPLARY, SPECIAL, INDIRECT, INCIDENTAL OR CONSEQUENTIAL LOSSES ARISING FROM OR RELATING TO ANY CLAIM MADE UNDER THIS AGREEMENT (EXCEPT FOR ALL COMPONENTS OF AWARDS AGAINST AN INDEMNITEE IN ANY THIRD PARTY CLAIM SUBJECT TO INDEMNIFICATION HEREUNDER, INCLUDING COMPONENTS OF SUCH THIRD PARTY CLAIM RELATING TO ANY OF THE FOREGOING AND ATTORNEYS' FEES).

Section 4.5 Limited Liability Exclusions. The limitation of Indemnifiable Losses provided in Section 4.4 shall not apply to: (a) fines or penalties, including the revocation of any Permit, assessed by a Governmental Entity; and (b) Indemnifiable Losses arising from willful misconduct or fraud.

## **ARTICLE V** **CONFIDENTIALITY**

Section 5.1 Confidentiality. The Parties acknowledge and agree that the Umbrella Secrecy Agreement is hereby incorporated into this Agreement, and shall apply to the transactions contemplated by this Agreement to the extent applicable, *mutatis mutandis*.

## **ARTICLE VI** **TERM**

Section 6.1 Term. The terms of the licenses and other grants of rights (and related obligations) under this Agreement shall remain in effect (a) to the extent with respect to the Patents and Copyrights licensed hereunder, on a Patent-by-Patent or Copyright-by-Copyright basis (as applicable), until expiration, invalidation or abandonment of such Patent or Copyright and (b) with respect to RemainCo Licensed Business Software, RemainCo Licensed Standards, ElectronicsCo Licensed Business Software and all other Licensed IP, in perpetuity. Each of the Parties acknowledges and agrees that the licenses granted hereunder (i) are irrevocable and (ii) may not be terminated for any reason (even in the event of a material breach).

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**ARTICLE VII**  
**MISCELLANEOUS**

Section 7.1 Complete Agreement; Construction. This Agreement, including the Schedules, the Separation Agreement and the other Ancillary Agreements constitute the entire agreement between the Parties with respect to the subject matter hereof and shall supersede all previous negotiations, commitments, course of dealings and writings with respect to such subject matter. In the event of any inconsistency between this Agreement and any Schedule hereto, the Schedule shall prevail. In the event and to the extent that there shall be a conflict between the provisions of this Agreement and the provisions of the Separation Agreement, the terms and conditions of this Agreement shall control.

Section 7.2 Counterparts. This Agreement may be executed and delivered (including by facsimile or other means of electronic transmission, such as by electronic mail in "pdf" form) in more than one counterpart, all of which shall be considered one and the same agreement, each of which when executed shall be deemed to be an original, and shall become effective when one or more such counterparts have been signed by each of the Parties and delivered to each of the Parties.

Section 7.3 Notices. Notices, requests, instructions or other documents to be given under this Agreement shall be in writing and shall be deemed to have been properly delivered, given and received, (a) on the date of transmission if sent via email (provided, however, that notice given by email shall not be effective unless either (i) a duplicate copy of such email notice is promptly given by one of the other methods described in this Section 7.3 or (ii) the receiving party delivers a written confirmation of receipt of such notice either by email or any other method described in this Section 7.3 (excluding "out of office" or other automated replies)), (b) when delivered, if delivered personally to the intended recipient, and (c) one (1) Business Day later, if sent by overnight delivery via a national courier service (providing proof of delivery), and in each case, addressed to a Party at the address for such Party set forth on a schedule to be delivered by each Party to the address set forth below (or at such other address for a Party as shall be specified in a notice given in accordance with this Section 7.3):

To RemainCo:

DuPont de Nemours, Inc.  
974 Centre Road, Building 730  
Wilmington, DE 19805  
Attention: General Counsel  
Email: [•]

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

Skadden, Arps, Slate, Meagher & Flom LLP  
One Manhattan West  
New York, NY 10001  
Attention: Brandon Van Dyke, Esq.  
Kyle J. Hatton, Esq.  
Jonathan M. Lee, Esq.  
Email: Brandon.VanDyke@skadden.com  
Kyle.Hatton@skadden.com  
Jonathan.Lee@skadden.com

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To ElectronicsCo:

Qnity Electronics, Inc.  
974 Centre Road, Building 735  
Wilmington, Delaware 19805  
Attention: Peter W. Hennessey  
Email: [•]

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

Skadden, Arps, Slate, Meagher & Flom LLP  
One Manhattan West  
New York, NY 10001  
Attention: Brandon Van Dyke, Esq.  
Kyle J. Hatton, Esq.  
Jonathan M. Lee, Esq.  
Email: Brandon.VanDyke@skadden.com  
Kyle.Hatton@skadden.com  
Jonathan.Lee@skadden.com

Section 7.4 Waivers. Any provision of this Agreement may be waived, if and only if, such waiver is in writing and signed by the Party against whom the waiver is to be effective. Notwithstanding the foregoing, no failure to exercise and no delay in exercising, on the part of any Party, any right, remedy, power or privilege hereunder shall operate as a waiver hereof; nor shall any single or partial exercise of any right, remedy, power or privilege hereunder preclude any other or further exercise thereof or the exercise of any other right, remedy, power or privilege. Any consent required or permitted to be given by any Party to the other Party under this Agreement shall be in writing and signed by the Party giving such consent and shall be effective only against such Party (and the members of its Group).

Section 7.5 Amendments. This Agreement may not be modified or amended except by an agreement in writing specifically designated as an amendment hereto signed by each of the Parties.

Section 7.6 Assignment. Neither this Agreement nor any of the rights, interests or obligations under this Agreement shall be assigned or transferred, in whole or in part, by operation of Law or otherwise, by either of the Parties without the prior written consent of the other Party (which consent may be granted or withheld in such other Party's sole discretion); provided, that such first Party may assign or transfer, in whole or in part, by operation of Law or otherwise, without the prior written consent of the other Party, this Agreement or any of the rights, interests or obligations under this Agreement to (a) one or more of its Affiliates and (b) the successor to all or a portion of the business or assets to which this Agreement relates; provided, further, that (i) the assigning or transferring Party shall promptly notify the non-assigning or non-transferring Party in writing of any assignments or transfers it makes under the foregoing clause (b), and (ii) in either case of the foregoing clauses (a) or (b), the party to whom this Agreement is assigned or transferred shall agree in writing to be bound by the terms of this Agreement as if named as a "Party" hereto with respect to all or such portion of this Agreement so assigned or transferred. Any purported assignment in violation of this Section 7.6 shall be void *ab initio*. No assignment or transfer shall relieve the assigning or transferring Party of any of its obligations under this Agreement that accrued prior to such assignment or transfer unless agreed to by the non-assigning or non-transferring Party. If either Party or any of its Affiliates assigns any of the Licensed IP, such assignment shall be subject to the licenses granted to such Intellectual Property under this Agreement and the assignee of such Licensed IP shall be deemed to assume the applicable obligations under this Agreement automatically with respect thereto.

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Section 7.7 Successors and Assigns. The provisions of this Agreement and the obligations and rights hereunder shall be binding upon, inure to the benefit of and be enforceable by (and against) the Parties and their respective successors and permitted transferees and assigns.

Section 7.8 Affiliates. Each of the Parties shall cause to be performed, and hereby guarantees the performance of, all actions, agreements and obligations set forth herein to be performed by any Affiliate of such Party or by any entity that becomes an Affiliate of such Party on and after the Effective Date.

Section 7.9 Third Party Beneficiaries. Except as provided in Article IV relating to Indemnitees, this Agreement is solely for the benefit of, and is only enforceable by, the Parties and their permitted successors and assigns and should not be deemed to confer upon third parties any remedy, benefit, claim, liability, reimbursement, claim of Action or other right of any nature whatsoever, in excess of those existing without reference to this Agreement.

Section 7.10 Title and Headings. Titles and headings to sections herein are inserted for the convenience of reference only and are not intended to be a part of or to affect the meaning or interpretation of this Agreement.

Section 7.11 Schedules. The Schedules shall be construed with and as an integral part of this Agreement to the same extent as if the same had been set forth verbatim herein.

Section 7.12 Governing Law. This Agreement and any dispute arising out of, in connection with or relating to this Agreement shall be governed by and construed in accordance with the Laws of the State of Delaware, without giving effect to the conflicts of laws principles thereof.

Section 7.13 Specific Performance. The Parties acknowledge and agree that irreparable harm would occur in the event that the Parties do not perform any provision of this Agreement in accordance with its specific terms or otherwise breach this Agreement and the remedies at law for any breach or threatened breach of this Agreement, including monetary damages, are inadequate compensation for any Indemnifiable Loss. Accordingly, from and after the Effective Date, in the event of any actual or threatened default in, or breach of, any of the terms, conditions and provisions of this Agreement, the Parties agree that the Parties to this Agreement who are or are to be thereby aggrieved shall, subject and pursuant to the terms of this Article VII (including for the avoidance of doubt, after compliance with all notice and negotiation provisions herein), have the right to specific performance and injunctive or other equitable relief of its or their rights under this Agreement, in addition to any and all other rights and remedies at law or in equity, and all such rights and remedies shall be cumulative. The Parties agree that any defense in any action for specific performance that a remedy at law would be adequate is hereby waived, and that any requirements for the securing or posting of any bond with such remedy are hereby waived.



Section 7.14 Severability. If any term, provision, covenant or restriction of this Agreement is held by a court of competent jurisdiction or other authority to be invalid, illegal, void or unenforceable, the remainder of the terms, provisions, covenants and restrictions of this Agreement shall remain in full force and effect and shall in no way be affected, impaired or invalidated so long as the economic or legal substance of the transactions contemplated hereby is not affected in any manner materially adverse to any Party. Upon a determination that any term, provision, covenant or restriction is invalid, illegal, void or unenforceable, the Parties shall negotiate in good faith to modify to the fullest extent permitted by applicable Law this Agreement so as to effect the original intent of the Parties as closely as possible in a mutually acceptable manner in order that the transactions contemplated hereby be consummated as originally contemplated to the fullest extent possible.

Section 7.15 No Duplication; No Double Recovery. Nothing in this Agreement is intended to confer to or impose upon any Party a duplicative right, entitlement, obligation or recovery with respect to any matter arising out of the same facts and circumstances.

Section 7.16 Dispute Resolution. In the event of a controversy, dispute or Action between the Parties arising out of, in connection with, or in relation to this Agreement or any of the transactions contemplated hereby, including with respect to the interpretation, performance, nonperformance, validity or breach thereof, and including any Action based on contract, tort, statute or constitution, including the arbitrability of such controversy, dispute or Action, the procedures as set forth in Article X of the Separation Agreement shall apply, *mutatis mutandis*.

Section 7.17 Bankruptcy. All rights and licenses granted under or pursuant to this Agreement by a Licensor are, and will otherwise be deemed to be, for purposes of Section 365(n) of the United States Bankruptcy Code, licenses of rights to “intellectual property” as defined under Section 101 of the United States Bankruptcy Code regardless of the form or type of intellectual property under or to which such rights and licenses are granted and regardless of whether the intellectual property is registered in or otherwise recognized by or applicable to the United States of America or any other country or jurisdiction. The Parties agree that each Licensee will retain and may fully exercise all of their rights and elections under the United States Bankruptcy Code. The Parties further agree that, in the event of the commencement of a bankruptcy proceeding by or against a Party under the United States Bankruptcy Code, the Party hereto that is not a party to such proceeding will be entitled to a complete duplicate of (or complete access to, as appropriate) any such intellectual property and all embodiments of such intellectual property, which, if not already in the non-subject Party’s possession, will be promptly delivered to it (a) upon any such commencement of a bankruptcy proceeding upon the non-subject Party’s written request therefore, unless the Party subject to such proceeding continues to perform all of its obligations under this Agreement or (b) if not delivered under clause (a) above, following the rejection of this Agreement by or on behalf of the Party subject to such proceeding upon written request therefore by the non-subject Party.

Section 7.18 Supplemental Terms. Notwithstanding anything to the contrary in this Agreement, the terms and conditions set forth in **Schedule M** shall apply with respect to the Intellectual Property referenced therein.

\* \* \* \* \*

*[End of page left intentionally blank]*

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

**DUPONT DE NEMOURS, INC.**

By: /s/ Erik T. Hoover

Name: Erik T. Hoover

Title: Senior Vice President and General Counsel

*[Signature Page to Intellectual Property Cross-License Agreement]*

---

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

**DUPONT ELECTRONIC POLYMERS L.P.**

By: /s/ Erik T. Hoover

Name: Erik T. Hoover

Title: Authorized Representative and DuPont General  
Counsel

*[Signature Page to Intellectual Property Cross-License Agreement]*

---

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

**DU PONT (CHINA) RESEARCH & DEVELOPMENT  
AND MANAGEMENT COMPANY LTD**

By: /s/ Zhidong Chen

Name: Zhidong Chen

Title: Legal Representative

*[Signature Page to Intellectual Property Cross-License Agreement]*

---

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

**DDP SPECIALTY ELECTRONIC MATERIALS US 5,  
LLC**

By: /s/ Erik T. Hoover

Name: Erik T. Hoover

Title: Authorized Representative and DuPont General  
Counsel

*[Signature Page to Intellectual Property Cross-License Agreement]*

---

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

**DDP SPECIALTY ELECTRONIC MATERIALS US 8,  
LLC**

By: /s/ Erik T. Hoover

Name: Erik T. Hoover

Title: Authorized Representative and DuPont General  
Counsel

*[Signature Page to Intellectual Property Cross-License Agreement]*

---

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

**DDP SPECIALTY ELECTRONIC MATERIALS US,  
LLC (FORMERLY DDP SPECIALTY ELECTRONIC  
MATERIALS US, INC.)**

By: /s/ Erik T. Hoover

Name: Erik T. Hoover

Title: Authorized Representative and DuPont General  
Counsel

*[Signature Page to Intellectual Property Cross-License Agreement]*

---

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

**DDP SPECIALTY ELECTRONIC MATERIALS US 9,  
LLC**

By: /s/ Erik T. Hoover

Name: Erik T. Hoover

Title: Authorized Representative and DuPont General  
Counsel

*[Signature Page to Intellectual Property Cross-License Agreement]*



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

**DUPONT SAFETY & CONSTRUCTION, INC.**

By: /s/ Erik T. Hoover

Name: Erik T. Hoover

Title: Authorized Representative and DuPont General  
Counsel

*[Signature Page to Intellectual Property Cross-License Agreement]*

---

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

**DUPONT SPECIALTY PRODUCTS USA, LLC**

By: /s/ Erik T. Hoover

Name: Erik T. Hoover

Title: Senior Vice President & General Counsel

*[Signature Page to Intellectual Property Cross-License Agreement]*

---

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

**DUPONT IP HOLDING, LLC**

By: /s/ Erik T. Hoover

Name: Erik T. Hoover

Title: Authorized Representative and DuPont General  
Counsel

*[Signature Page to Intellectual Property Cross-License Agreement]*

---

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

**DUPONT SPECIALTY PRODUCTS OPERATIONS  
SARL**

By: /s/ Peter Baele

Name: Peter Baele

Title: Director

*[Signature Page to Intellectual Property Cross-License Agreement]*

---

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

**DUPONT DE NEMOURS INTERNATIONAL SARL**

By: /s/ Peter Baele

Name: Peter Baele

Title: Director

*[Signature Page to Intellectual Property Cross-License Agreement]*

---

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

**FILMTEC CORPORATION**

By: /s/ Erik T. Hoover

Name: Erik T. Hoover

Title: Authorized Representative

*[Signature Page to Intellectual Property Cross-License Agreement]*

---

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

**DUPONT JAPAN KABUSHIKI KAISHA**

By: /s/ Takayuki Ohba

Name: Takayuki Ohba

Title: Representative Director

*[Signature Page to Intellectual Property Cross-License Agreement]*

---

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

**DDP SPECIALTY PRODUCTS JAPAN KK**

By: /s/ Takayuki Ohba

Name: Takayuki Ohba

Title: Representative Director

*[Signature Page to Intellectual Property Cross-License Agreement]*



---

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

**SPECIALTY ELECTRONIC MATERIALS  
NETHERLANDS B.V.**

By: /s/ Willem G. Buitelaar

Name: Willem G. Buitelaar

Title: Director/Manager

*[Signature Page to Intellectual Property Cross-License Agreement]*

---

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

**DSP S.A.S.**

By: /s/ Christophe Gay-Bellile

Name: Christophe Gay-Bellile

Title: President

*[Signature Page to Intellectual Property Cross-License Agreement]*

---

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

**FILMTEC WATER SINGAPORE PTE. LTD.**

By: /s/ Gulati Tanmeet Singh

Name: Gulati Tanmeet Singh

Title: Director

*[Signature Page to Intellectual Property Cross-License Agreement]*

---

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

**DUPONT (SHENZHEN) INVESTMENT CO., LTD.**

By: /s/ Zhidong Chen

Name: Zhidong Chen

Title: Legal Representative

*[Signature Page to Intellectual Property Cross-License Agreement]*

---

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

**SP HOLDING II ET, INC.**

By: /s/ Erik T. Hoover

Name: Erik T. Hoover

Title: Authorized Representative

*[Signature Page to Intellectual Property Cross-License Agreement]*

---

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

**DUPONT DIVERSIFIED INDUSTRIALS CANADA  
COMPANY**

By: /s/ Paul J. Klasios

Name: Paul J. Klasios

Title: Secretary

*[Signature Page to Intellectual Property Cross-License Agreement]*

---

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

**DUPONT SPECIALTY MATERIALS (SHANGHAI)  
CO., LTD.**

By: /s/ Hao Zhang  
Name: Hao Zhang  
Title: Legal Representative

*[Signature Page to Intellectual Property Cross-License Agreement]*

---

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

**DUPONT MATERIALS TECHNOLOGY (SHANGHAI)  
CO., LTD.**

By: /s/ Zhaofeng Chen  
Name: Zhaofeng Chen  
Title: Legal Representative

*[Signature Page to Intellectual Property Cross-License Agreement]*



---

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

**DUPONT JP HOLDING 1, INC.**

By: /s/ Erik T. Hoover

Name: Erik T. Hoover

Title: Authorized Representative

*[Signature Page to Intellectual Property Cross-License Agreement]*

---

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

**DUPONT JP HOLDING 2, INC.**

By: /s/ Erik T. Hoover

Name: Erik T. Hoover

Title: Authorized Representative

*[Signature Page to Intellectual Property Cross-License Agreement]*

---

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

**DUPONT DIVERSIFIED INDUSTRIALS  
NETHERLANDS HOLDING 3 B.V.**

By: /s/ Willem G. Buitelaar

Name: Willem G. Buitelaar

Title: Director

*[Signature Page to Intellectual Property Cross-License Agreement]*

---

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

**FILM TEC JAPAN HOLDING KABUSHIKI KAISHA**

By: /s/ Takayuki Ohba

Name: Takayuki Ohba

Title: Representative Director

*[Signature Page to Intellectual Property Cross-License Agreement]*

---

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

**ARROW TRADING (SHANGHAI) CO., LTD.**

By: /s/ Zhengyan Chen

Name: Zhengyan Chen

Title: Legal Representative

*[Signature Page to Intellectual Property Cross-License Agreement]*

---

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

**QNTY ELECTRONICS, INC.**

By: /s/ Jon D. Kemp

Name: Jon D. Kemp

Title: Chief Executive Officer

*[Signature Page to Intellectual Property Cross-License Agreement]*

---

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

**DUPONT SPECIALTY MATERIALS SINGAPORE  
PTE. LTD. (FORMERLY ROHM AND HAAS  
ELECTRONIC MATERIALS SINGAPORE PTE. LTD.)**

By: /s/ Wong Choon Hee James

Name: Wong Choon Hee James

Title: Director

*[Signature Page to Intellectual Property Cross-License Agreement]*

---

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

**DU PONT CHINA HOLDING COMPANY LIMITED**

By: /s/ Hui Lu

Name: Hui Lu

Title: Legal Representative

*[Signature Page to Intellectual Property Cross-License Agreement]*



---

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

**DUPONT ELECTRONICS, INC.**

By: /s/ Lauren Luptak

Name: Lauren Luptak

Title: Vice President

*[Signature Page to Intellectual Property Cross-License Agreement]*

---

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

**EIDCA SPECIALTY PRODUCTS COMPANY**

By: /s/ Wendy Andrushko

Name: Wendy Andrushko

Title: President and Director

*[Signature Page to Intellectual Property Cross-License Agreement]*

---

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

**DUPONT ELECTRONIC MATERIALS  
INTERNATIONAL, LLC (F/K/A ROHM AND HAAS  
ELECTRONIC MATERIALS LLC)**

By: /s/ Lauren Luptak

Name: Lauren Luptak

Title: Vice President

*[Signature Page to Intellectual Property Cross-License Agreement]*

---

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

**DUPONT ELECTRONIC MATERIALS HOLDING,  
INC. (F/K/A ROHM AND HAAS ELECTRONIC  
MATERIALS CMP HOLDINGS, INC.)**

By: /s/ Lauren Luptak

Name: Lauren Luptak

Title: Vice President

*[Signature Page to Intellectual Property Cross-License Agreement]*

---

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

**DUPONT TECHNOLOGY (SHANGHAI) CO., LTD.**

By: /s/ Huiguang Yu

Name: 于会光 (Huiguang Yu)

Title: Legal Representative

*[Signature Page to Intellectual Property Cross-License Agreement]*

---

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

**LAIRD TECHNOLOGIES, INC.**

By: /s/ Lauren Luptak

Name: Lauren Luptak

Title: Vice President

*[Signature Page to Intellectual Property Cross-License Agreement]*

---

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

**DUPONT ELECTRONIC MATERIALS CMP, LLC  
(FORMERLY ROHM AND HAAS ELECTRONIC  
MATERIALS CMP, LLC, FORMERLY ROHM AND  
HAAS ELECTRONIC MATERIALS CMP INC.)**

By: /s/ Lauren Luptak

Name: Lauren Luptak

Title: Vice President

*[Signature Page to Intellectual Property Cross-License Agreement]*

---

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

**DSP SINGAPORE HOLDINGS PTE. LTD.**

By: /s/ Wong Choon Hee James

Name: Wong Choon Hee James

Title: Director

*[Signature Page to Intellectual Property Cross-License Agreement]*



---

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

**DUPONT PERFORMANCE PRODUCTS JAPAN  
KABUSHIKI KAISHA (FORMERLY ROHM AND  
HAAS ELECTRONIC MATERIALS K.K.)**

By: /s/ Shigenori Kobayashi

Name: Shigenori Kobayashi

Title: President

*[Signature Page to Intellectual Property Cross-License Agreement]*

---

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

**EKC ADVANCED ELECTRONICS USA 2, LLC**

By: /s/ Lauren Luptak

Name: Lauren Luptak

Title: Vice President

*[Signature Page to Intellectual Property Cross-License Agreement]*

---

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

**DUPONT INTERNATIONAL COMMERCE  
(SHANGHAI) CO., LTD.**

By: /s/ Yi Liu

Name: Yi Liu

Title: Legal Representative

*[Signature Page to Intellectual Property Cross-License Agreement]*

---

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

**EKC ADVANCED ELECTRONICS USA 3, LLC**

By: /s/ Lauren Luptak

Name: Lauren Luptak

Title: Vice President

*[Signature Page to Intellectual Property Cross-License Agreement]*

---

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

**EKC ADVANCED ELECTRONICS USA 4, LLC**

By: /s/ Lauren Luptak

Name: Lauren Luptak

Title: Vice President

*[Signature Page to Intellectual Property Cross-License Agreement]*

---

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

**EKC ADVANCED ELECTRONICS USA, LLC**

By: /s/ Lauren Luptak

Name: Lauren Luptak

Title: Vice President

*[Signature Page to Intellectual Property Cross-License Agreement]*

---

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

**ELECTRONICS JP HOLDING 3, INC.**

By: /s/ Lauren Luptak

Name: Lauren Luptak

Title: Vice President

*[Signature Page to Intellectual Property Cross-License Agreement]*

---

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

**KALREZ USA, LLC**

By: /s/ Lauren Luptak

Name: Lauren Luptak

Title: Vice President

*[Signature Page to Intellectual Property Cross-License Agreement]*



---

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

**EKC ADVANCED ELECTRONICS IP, LLC**

By: /s/ Lauren Luptak

Name: Lauren Luptak

Title: Vice President

*[Signature Page to Intellectual Property Cross-License Agreement]*

---

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

**EKC ADVANCED ELECTRONIC SOLUTIONS SÀRL**

By: /s/ Christiaan van Hogendorp

Name: Christiaan van Hogendorp

Title: Director

*[Signature Page to Intellectual Property Cross-License Agreement]*

---

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

**ELECTRONICS JP HOLDING 1, INC.**

By: /s/ Lauren Luptak

Name: Lauren Luptak

Title: Vice President

*[Signature Page to Intellectual Property Cross-License Agreement]*

---

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

**EKC ADVANCED ELECTRONICS 1 JAPAN  
KABUSHIKI KAISHA**

By: /s/ Shigenori Kobayashi

Name: Shigenori Kobayashi

Title: President

*[Signature Page to Intellectual Property Cross-License Agreement]*

---

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

**EKC ADVANCED ELECTRONICS 3 JAPAN  
KABUSHIKI KAISHA**

By: /s/ Shigenori Kobayashi

Name: Shigenori Kobayashi

Title: President

*[Signature Page to Intellectual Property Cross-License Agreement]*

---

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

**EKC ADVANCED ELECTRONICS NETHERLANDS  
BV**

By: /s/ Christiaan van Hogendorp

Name: Christiaan van Hogendorp

Title: Director

*[Signature Page to Intellectual Property Cross-License Agreement]*

---

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

**EKC ELECTRONICS FRANCE SAS**

By: /s/ Sébastien Chaudet

Name: Sébastien Chaudet

Title: President

*[Signature Page to Intellectual Property Cross-License Agreement]*

# PARTIAL ASSIGNMENT AGREEMENT

This PARTIAL ASSIGNMENT AGREEMENT (this “Agreement”), is made and entered into as of November 1, 2025, by and between DuPont de Nemours, Inc., a Delaware corporation (“Assignor”), and Qnity Electronics, Inc., a Delaware corporation (“Assignee”). Capitalized terms used but not otherwise defined herein have the meanings set forth in the Letter Agreement (as defined below).

**WHEREAS**, Assignor, Corteva, Inc., a Delaware corporation (“AgCo”), and Dow Inc., a Delaware corporation, entered into that certain Separation and Distribution Agreement on April 1, 2019 (the “DWDP SDA”), pursuant to which Assignor was separated into three separate, publicly traded companies;

**WHEREAS**, Assignor and AgCo, entered into that certain letter agreement on June 1, 2019 (the “Letter Agreement”), pursuant to which, under Section 4.01 thereof, Assignor agreed not to, and to cause its Subsidiaries not to, directly or indirectly, sell, transfer or otherwise dispose of any business or asset of Assignor and its consolidated Subsidiaries to any Person that is not a Subsidiary of Assignor at such time, including by way of a Spin-Off, unless the Transfer would meet the Indemnification Condition;

**WHEREAS**, Assignor, AgCo, E. I. du Pont de Nemours and Company, a Delaware corporation, and The Chemours Company, a Delaware corporation, entered into that certain binding memorandum of understanding on January 22, 2021 (the “MOU”), pursuant to which the parties thereto allocated amongst themselves certain funding obligations in respect of Qualified Spend (as defined therein);

**WHEREAS**, Assignor intends to Transfer, by way of a Spin-Off (the “Electronics Spin-Off”), its Electronics Business (as defined below) to Assignee, including the assumption by Assignee of the SpecCo Relevant Legacy Liabilities (as defined below) and the SpecCo Funding Obligations (as defined below); and

**WHEREAS**, Assignee desires to accept, assume (or, as applicable, retain) and perform, discharge and fulfill, in accordance with their respective terms, all of the SpecCo Relevant Legacy Liabilities and the SpecCo Funding Obligations.

**NOW, THEREFORE**, in consideration of the foregoing and the mutual agreements, provisions and covenants contained in this Agreement and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, Assignor and Assignee agree as follows:

## 1. Indemnification Condition.

- (a) Partial Assumption of Legacy Liabilities. Effective immediately prior to the consummation of the Electronics Spin-Off (the “Assumption Effective Time”), Assignee hereby, subject only to the occurrence of the Electronics Spin-Off, irrevocably accepts, assumes (or, as applicable, retains) and agrees to perform, discharge and fulfill, in accordance with their respective terms and Section 4.01(e) of the Letter Agreement, that certain portion of each Legacy Liability of Assignor (the “SpecCo Relevant Legacy Liabilities”) equal to the *quotient of* (i) the Pro Forma Operating EBITDA attributable to the Electronics Business (measured at the time of the Electronics Spin-Off, but prior to giving effect to the Electronics Spin-Off), *divided by* (ii) the Pro Forma Operating EBITDA (measured at the time of the Electronics Spin-Off, but prior to giving effect to the Electronics Spin-Off) of Assignor (such quotient, the “Partial Assumption Fraction”).



- 
- (b) Assumption Condition. Effective as of the Assumption Effective Time, in accordance with Section 4.01(f)(iv) of the Letter Agreement, Assignee hereby agrees to comply with the provisions of Section 4.01 of the Letter Agreement from and after the Assumption Effective Time as if it were Assignor, (A) other than the references to SpecCo in the definitions of “Other Party”, “Valuation Expert” and sections (i) and (ii) of “Aggregate Fair Indemnification Value” under the Letter Agreement, and (B) substituting (x) the amount equal to (i) the Indemnification Reduction Quotient for the Electronics Spin-Off, *multiplied by* (ii) SpecCo’s Minimum EBITDA (measured at the time of the Electronics Spin-Off, prior to giving effect to the Electronics Spin-Off) for the value of Minimum EBITDA and (y) the Legacy Liabilities assumed (or, as applicable, retained) by Assignee in the Electronics Spin-Off for the definition of Legacy Liabilities. Each member of the AgCo Group shall be a third party beneficiary of this Section 1(b).
2. MOU. Effective immediately as of the Assumption Effective Time, Assignee hereby irrevocably accepts, assumes (or, as applicable, retains) and agrees to perform, discharge and fulfill, in accordance with the MOU, that certain portion of Assignor’s funding obligations under the MOU, including with respect to the funding of the escrow account thereunder (the “SpecCo Funding Obligations”), equal to the Partial Assumption Fraction.
3. No Modification. The partial assumption of each of the SpecCo Relevant Legacy Liabilities and the SpecCo Funding Obligations made hereunder is made in accordance with the Letter Agreement and the MOU (including, in each case, without limitation, the representations, warranties, covenants, agreements and indemnities contained therein). Nothing contained in this Agreement is intended to or shall be deemed to modify, alter, amend or otherwise change any of the rights or obligations of the parties and their respective Affiliates under the Letter Agreement or the MOU. The representations, warranties, covenants, agreements and indemnities contained in the Letter Agreement and the MOU shall not be superseded hereby but shall remain in full force and effect to the full extent provided therein, where applicable. The parties hereto agree that, in the event of any discrepancy or inconsistency between the terms of this Agreement, on the one hand, and the terms of the DWDP SDA, the Letter Agreement or the MOU, on the other hand, the terms of the DWDP SDA, the Letter Agreement or the MOU, as applicable, shall prevail over the terms of this Agreement, or any document entered into pursuant to this Agreement. Notwithstanding anything herein to the contrary, nothing contained in this Agreement shall relieve Assignor of its obligations, as between Assignor and the AgCo Indemnitees, under the DWDP SDA, the Letter Agreement or the MOU. The parties hereto agree that if the Electronics Spin-Off does not occur for any reason, this Agreement, the partial assumption of each of the SpecCo Relevant Legacy Liabilities and the SpecCo Funding Obligations made hereunder, and any other transactions contemplated by this Agreement shall be null and void.
4. Definitions. For purposes of this Agreement, the “Electronics Business” shall mean the following lines of business (whether covered independently or in association with one or more third parties through a partnership, joint venture or other mutual enterprise), in each case as conducted prior to the Electronics Spin-Off by Assignor, Assignee or any of their respective subsidiaries immediately prior to the Electronics Spin-Off (but after giving effect to the internal reorganization contemplated thereby) (or any of their respective predecessors): Semiconductor Technologies (which, for avoidance of doubt, includes Chemical Mechanical Planarization Technologies (CMPT); Lithography; Chemical Mechanical Planarization (CMP) Slurries; Displays HDM/PI; Organic Light Emitting Diodes (OLEDs); Display Materials; Advanced Clean Technologies; and Kalrez®) and Interconnect Solutions (which, for avoidance of doubt, includes LED Silicones; Metalization and Imaging; Advanced Packaging (APT); Semi Packaging Silicones; Laminates; Films; Laird Performance Materials; and Electronic Polymers).

- 
5. Successors and Assigns. The provisions of this Agreement and the obligations and rights hereunder shall be binding upon, inure to the benefit of and be enforceable by (and against) the parties hereto and their respective successors and permitted transferees and assigns.
  6. Third Party Beneficiaries. Except as provided in Section 1(b), this Agreement is solely for the benefit of, and is only enforceable by, the parties hereto and their permitted successors and assigns and should not be deemed to confer upon third parties any remedy, benefit, claim, liability, reimbursement, claim of Action or other right of any nature whatsoever in excess of those existing without reference to this Agreement.
  7. Further Assurances. Assignor or Assignee, as applicable, shall, from time to time, at the request of Assignee or Assignor, as applicable, execute and deliver such other instruments of conveyance and transfer and take such other actions as may be reasonably required to evidence and consummate the transactions contemplated hereby.
  8. Counterparts. This Agreement may be executed and delivered (including by means of electronic transmission, such as by email in “pdf” form) in more than one counterpart, all of which shall be considered one and the same agreement, each of which when executed shall be deemed to be an original, and shall become effective when one or more such counterparts have been signed by each of the parties hereto and delivered to each of the parties hereto.
  9. Title and Headings. Titles and headings to sections herein are inserted for the convenience of reference only and are not intended to be a part of or to affect the meaning or interpretation of this Agreement.
  10. Amendments. This Agreement may not be modified or amended except by an agreement in writing signed by each of the parties hereto.
  11. Governing Law. This Agreement and any dispute arising out of, in connection with or relating to this Agreement shall be governed by and construed in accordance with the Laws of the State of Delaware, without giving effect to the conflicts of laws principles thereof.

*[Signature Page Follows]*

---

IN WITNESS WHEREOF, each party hereto has duly executed this Agreement as of the date first written above.

DUPONT DE NEMOURS, INC.

By: /s/ Erik T. Hoover

Name: Erik T. Hoover

Title: Senior Vice President and General Counsel

QNITY ELECTRONICS, INC.

By: /s/ Jon D. Kemp

Name: Jon D. Kemp

Title: Chief Executive Officer

*[Signature Page to Partial Assignment Agreement (Corteva Side Letter)]*

**CREDIT AGREEMENT**

**DATED AS OF OCTOBER 31, 2025**

**AMONG**

**QNTY ELECTRONICS, INC.,  
AS PARENT BORROWER,**

**JPMORGAN CHASE BANK, N.A.,  
AS ADMINISTRATIVE AGENT, COLLATERAL AGENT AND AN L/C ISSUER,**

**THE OTHER LENDERS AND L/C ISSUERS PARTY HERETO,**

**JPMORGAN CHASE BANK, N.A.,  
SUMITOMO MITSUI BANKING CORPORATION,  
BOFA SECURITIES, INC.,  
BARCLAYS BANK PLC,  
BNP PARIBAS  
CITIBANK, N.A.,  
GOLDMAN SACHS BANK USA  
MIZUHO BANK, LTD.  
MUFG BANK, LTD.  
AND  
HSBC SECURITIES (USA) INC.  
AS JOINT LEAD ARRANGERS AND AS JOINT BOOKRUNNERS**

**AND**

**SUMITOMO MITSUI BANKING CORPORATION,  
AS SYNDICATION AGENT**

**AND**

**BOFA SECURITIES, INC.,  
BARCLAYS BANK PLC,  
BNP PARIBAS  
CITIBANK, N.A.,  
GOLDMAN SACHS BANK USA  
MIZUHO BANK, LTD.  
MUFG BANK, LTD.  
HSBC SECURITIES (USA) INC.  
STANDARD CHARTERED BANK  
TD SECURITIES (USA) LLC  
AND  
WELLS FARGO SECURITIES, LLC  
AS DOCUMENTATION AGENT**

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## TABLE OF CONTENTS

Page

### ARTICLE I

#### DEFINITIONS AND ACCOUNTING TERMS

|              |                                        |     |
|--------------|----------------------------------------|-----|
| Section 1.01 | Defined Terms                          | 1   |
| Section 1.02 | Other Interpretive Provisions          | 96  |
| Section 1.03 | Accounting Terms                       | 99  |
| Section 1.04 | Rounding                               | 100 |
| Section 1.05 | References to Agreements and Laws      | 100 |
| Section 1.06 | Times of Day                           | 100 |
| Section 1.07 | Timing of Payment or Performance       | 100 |
| Section 1.08 | [Reserved]                             | 100 |
| Section 1.09 | Letter of Credit Amounts               | 100 |
| Section 1.10 | Pro Forma Calculations                 | 101 |
| Section 1.11 | Calculation of Baskets                 | 101 |
| Section 1.12 | Agreed Security Principles             | 101 |
| Section 1.13 | Foreign Loan Party Provisions          | 101 |
| Section 1.14 | Borrower Representative                | 101 |
| Section 1.15 | Additional Borrowers                   | 102 |
| Section 1.16 | Interest Rates; Benchmark Notification | 102 |

### ARTICLE II

#### THE COMMITMENTS AND CREDIT EXTENSIONS

|              |                                                          |     |
|--------------|----------------------------------------------------------|-----|
| Section 2.01 | The Loans                                                | 103 |
| Section 2.02 | Borrowings, Conversions and Continuations of Loans       | 104 |
| Section 2.03 | Letters of Credit                                        | 105 |
| Section 2.04 | [Reserved]                                               | 114 |
| Section 2.05 | Prepayments                                              | 114 |
| Section 2.06 | Termination or Reduction of Commitments                  | 120 |
| Section 2.07 | Repayment of Loans                                       | 121 |
| Section 2.08 | Interest                                                 | 122 |
| Section 2.09 | Fees                                                     | 122 |
| Section 2.10 | Computation of Interest and Fees                         | 123 |
| Section 2.11 | Evidence of Indebtedness                                 | 123 |
| Section 2.12 | Payments Generally; Administrative Agent's Clawback      | 123 |
| Section 2.13 | Sharing of Payments                                      | 125 |
| Section 2.14 | Incremental Facilities                                   | 126 |
| Section 2.15 | Incremental Equivalent Debt                              | 131 |
| Section 2.16 | Cash Collateral                                          | 133 |
| Section 2.17 | Defaulting Lenders                                       | 134 |
| Section 2.18 | Specified Refinancing Debt                               | 135 |
| Section 2.19 | Permitted Debt Exchanges                                 | 138 |
| Section 2.20 | [Reserved]                                               | 140 |
| Section 2.21 | [Reserved]                                               | 140 |
| Section 2.22 | Extension of Term Loans and Revolving Credit Commitments | 140 |

---

## ARTICLE III

### TAXES, INABILITY TO DETERMINE RATES, INCREASED COSTS PROTECTION AND ILLEGALITY

|              |                                                                                |     |
|--------------|--------------------------------------------------------------------------------|-----|
| Section 3.01 | Taxes                                                                          | 143 |
| Section 3.02 | [Reserved]                                                                     | 147 |
| Section 3.03 | Illegality                                                                     | 147 |
| Section 3.04 | Inability to Determine Rates                                                   | 147 |
| Section 3.05 | Increased Cost and Reduced Return; Capital Adequacy and Liquidity Requirements | 149 |
| Section 3.06 | Funding Losses                                                                 | 151 |
| Section 3.07 | Matters Applicable to All Requests for Compensation                            | 151 |
| Section 3.08 | Replacement of Lenders under Certain Circumstances                             | 152 |

## ARTICLE IV

### CONDITIONS PRECEDENT TO CREDIT EXTENSIONS

|              |                                                                |     |
|--------------|----------------------------------------------------------------|-----|
| Section 4.01 | Conditions to the Initial Credit Extension on the Closing Date | 154 |
| Section 4.02 | Conditions to Credit Extensions After the Closing Date         | 156 |

## ARTICLE V

### REPRESENTATIONS AND WARRANTIES

|              |                                                  |     |
|--------------|--------------------------------------------------|-----|
| Section 5.01 | Existence, Qualification and Power               | 157 |
| Section 5.02 | Authorization; No Contravention                  | 158 |
| Section 5.03 | Governmental Authorization; Other Consents       | 158 |
| Section 5.04 | Binding Effect                                   | 158 |
| Section 5.05 | Financial Statements; No Material Adverse Effect | 158 |
| Section 5.06 | Litigation                                       | 159 |
| Section 5.07 | Use of Proceeds                                  | 159 |
| Section 5.08 | Ownership of Property; Liens                     | 159 |
| Section 5.09 | Environmental Compliance                         | 159 |
| Section 5.10 | Taxes                                            | 160 |
| Section 5.11 | Employee Benefits Plans                          | 160 |
| Section 5.12 | Subsidiaries; Capital Stock                      | 161 |
| Section 5.13 | Margin Regulations; Investment Company Act       | 161 |
| Section 5.14 | Disclosure                                       | 161 |
| Section 5.15 | Compliance with Laws                             | 162 |
| Section 5.16 | Intellectual Property; Licenses, Etc.            | 162 |
| Section 5.17 | Solvency                                         | 162 |
| Section 5.18 | Perfection, Etc.                                 | 162 |
| Section 5.19 | Sanctions Laws & Regulations                     | 162 |
| Section 5.20 | Anti-Corruption Laws                             | 163 |
| Section 5.21 | [Reserved]                                       | 163 |
| Section 5.22 | Insurance                                        | 163 |

---

ARTICLE VI  
AFFIRMATIVE COVENANTS

|              |                                                                        |     |
|--------------|------------------------------------------------------------------------|-----|
| Section 6.01 | Financial Statements                                                   | 163 |
| Section 6.02 | Certificates; Other Information                                        | 165 |
| Section 6.03 | Notices                                                                | 166 |
| Section 6.04 | Payment of Taxes                                                       | 166 |
| Section 6.05 | Preservation of Existence, Etc.                                        | 166 |
| Section 6.06 | Maintenance of Properties; Ownership of Material Intellectual Property | 167 |
| Section 6.07 | Maintenance of Insurance                                               | 167 |
| Section 6.08 | Compliance with Laws                                                   | 168 |
| Section 6.09 | Books and Records                                                      | 168 |
| Section 6.10 | Inspection Rights                                                      | 168 |
| Section 6.11 | Use of Proceeds                                                        | 168 |
| Section 6.12 | Covenant to Guarantee Obligations and Give Security                    | 168 |
| Section 6.13 | Compliance with Environmental Laws                                     | 170 |
| Section 6.14 | Further Assurances                                                     | 170 |
| Section 6.15 | Maintenance of Ratings                                                 | 171 |
| Section 6.16 | Post-Closing Undertakings                                              | 171 |

ARTICLE VII  
NEGATIVE COVENANTS

|              |                                                                             |     |
|--------------|-----------------------------------------------------------------------------|-----|
| Section 7.01 | Indebtedness                                                                | 171 |
| Section 7.02 | Limitations on Liens                                                        | 179 |
| Section 7.03 | Fundamental Changes                                                         | 180 |
| Section 7.04 | Asset Sales                                                                 | 181 |
| Section 7.05 | Restricted Payments                                                         | 183 |
| Section 7.06 | Burdensome Agreements                                                       | 190 |
| Section 7.07 | Accounting Changes                                                          | 192 |
| Section 7.08 | Financial Covenant                                                          | 192 |
| Section 7.09 | Amendments to Subordinated Indebtedness Documents or Organization Documents | 193 |
| Section 7.10 | Anti-Corruption Laws; Sanctions Laws and Regulations                        | 193 |
| Section 7.11 | Transactions with Affiliates                                                | 193 |
| Section 7.12 | Line of Business                                                            | 197 |

ARTICLE VIII  
EVENTS OF DEFAULT AND REMEDIES

|              |                                |     |
|--------------|--------------------------------|-----|
| Section 8.01 | Events of Default              | 197 |
| Section 8.02 | Remedies Upon Event of Default | 200 |
| Section 8.03 | Clean-Up Period                | 201 |
| Section 8.04 | Application of Funds           | 201 |

---

ARTICLE IX

ADMINISTRATIVE AGENT AND OTHER AGENTS

|              |                                                                                                                                   |     |
|--------------|-----------------------------------------------------------------------------------------------------------------------------------|-----|
| Section 9.01 | Appointment and Authorization of Agents                                                                                           | 203 |
| Section 9.02 | Delegation of Duties                                                                                                              | 204 |
| Section 9.03 | Liability of Agents                                                                                                               | 204 |
| Section 9.04 | Reliance by Agents                                                                                                                | 207 |
| Section 9.05 | Notice of Default                                                                                                                 | 207 |
| Section 9.06 | Credit Decision; Disclosure of Information by Agents                                                                              | 207 |
| Section 9.07 | Indemnification of Agents                                                                                                         | 208 |
| Section 9.08 | Agents in their Individual Capacities                                                                                             | 208 |
| Section 9.09 | Successor Agents                                                                                                                  | 209 |
| Section 9.10 | Administrative Agent May File Proofs of Claim                                                                                     | 210 |
| Section 9.11 | Collateral and Guaranty Matters                                                                                                   | 211 |
| Section 9.12 | Other Agents; Arranger and Managers                                                                                               | 213 |
| Section 9.13 | Secured Cash Management Agreements and Secured Hedge Agreements                                                                   | 213 |
| Section 9.14 | Appointment of Supplemental Agents, Incremental Arrangers, Incremental Equivalent Debt Arrangers and Specified Refinancing Agents | 214 |
| Section 9.15 | Intercreditor Agreement                                                                                                           | 214 |
| Section 9.16 | Acknowledgment Regarding any Supported QFCs                                                                                       | 215 |
| Section 9.17 | Credit Bidding                                                                                                                    | 216 |
| Section 9.18 | Certain ERISA Matters                                                                                                             | 217 |
| Section 9.19 | Know Your Customer Information                                                                                                    | 218 |

ARTICLE X

MISCELLANEOUS

|                      |                                                                 |     |
|----------------------|-----------------------------------------------------------------|-----|
| Section 10.01        | Amendments, Etc.                                                | 218 |
| Section 10.02        | Notices; Electronic Communications                              | 222 |
| Section 10.03        | No Waiver; Cumulative Remedies; Enforcement                     | 224 |
| Section 10.04        | Costs and Expenses                                              | 225 |
| Section 10.05        | Indemnification by the Borrowers; Limitation of Liability; Etc. | 225 |
| Section 10.06        | Payments Set Aside                                              | 227 |
| Section 10.07        | Successors and Assigns                                          | 227 |
| Section 10.08        | Confidentiality                                                 | 234 |
| Section 10.09        | Setoff                                                          | 235 |
| Section 10.10        | Interest Rate Limitation                                        | 236 |
| Section 10.11        | Counterparts; Electronic Execution                              | 236 |
| Section 10.12        | Integration; Effectiveness                                      | 236 |
| Section 10.13        | Survival of Representations and Warranties                      | 237 |
| Section 10.14        | Severability                                                    | 237 |
| Section 10.15        | Governing Law; Jurisdiction; Etc.                               | 237 |
| Section 10.16        | Service of Process                                              | 238 |
| <b>Section 10.17</b> | <b>WAIVER OF RIGHT TO TRIAL BY JURY</b>                         | 238 |
| Section 10.18        | [Reserved]                                                      | 238 |
| Section 10.19        | No Advisory or Fiduciary Responsibility                         | 239 |
| Section 10.20        | Affiliate Activities                                            | 239 |
| Section 10.21        | [Reserved]                                                      | 239 |
| Section 10.22        | USA PATRIOT Act                                                 | 240 |



---

|               |                                              |     |
|---------------|----------------------------------------------|-----|
| Section 10.23 | Judgment Currency                            | 240 |
| Section 10.24 | Joint and Several Liability                  | 240 |
| Section 10.25 | Acknowledgment and Consent to Bail-In Action | 242 |
| Section 10.26 | Parallel Liability                           | 242 |
| Section 10.27 | [Reserved]                                   | 243 |
| Section 10.28 | Lender Affiliates and Facility Office        | 243 |

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## SCHEDULES

|         |                                                                 |
|---------|-----------------------------------------------------------------|
| 1.01(a) | Disclosed Matters                                               |
| 1.01(b) | Guarantors                                                      |
| 1.01(c) | Closing Date L/C Issuers and Letter of Credit Sublimits         |
| 1.12    | Agreed Security Principles                                      |
| 1.13    | Foreign Loan Party Provisions                                   |
| 2.01    | Commitments and Pro Rata Shares                                 |
| 6.16    | Post-Closing Undertakings                                       |
| 7.01    | Closing Date Indebtedness                                       |
| 7.02    | Closing Date Liens                                              |
| 7.05    | Closing Date Investments                                        |
| 7.11    | Closing Date Affiliate Transactions                             |
| 10.02   | Administrative Agent's Office and Certain Addresses for Notices |

## EXHIBITS

### Form of

|     |                                                |
|-----|------------------------------------------------|
| A-1 | Committed Loan Notice                          |
| A-2 | Request for L/C Credit Extension               |
| B-1 | Term Note                                      |
| B-2 | Revolving Credit Note                          |
| C   | Compliance Certificate                         |
| D-1 | Assignment and Assumption                      |
| D-2 | Administrative Questionnaire                   |
| E   | Guaranty                                       |
| F   | U.S. Security Agreement                        |
| G-1 | First Lien/Second Lien Intercreditor Agreement |
| G-2 | Pari First Lien Intercreditor Agreement        |
| H   | Intercompany Subordination Agreement           |
| I-1 | U.S. Tax Compliance Certificate                |
| I-2 | U.S. Tax Compliance Certificate                |
| I-3 | U.S. Tax Compliance Certificate                |
| I-4 | U.S. Tax Compliance Certificate                |
| J   | Optional Prepayment of Loans                   |
| K   | Solvency Certificate                           |
| L   | Borrower Designation Agreement                 |
| M   | Borrower Termination Agreement                 |

This CREDIT AGREEMENT is entered into as of October 31, 2025, among QNITY ELECTRONICS, INC., a Delaware corporation (the “Parent Borrower”), each other Subsidiary of the Parent Borrower that is or becomes a party hereto as a borrower pursuant to Section 1.15 from time to time (each, a “Subsidiary Borrower” and together with the Parent Borrower, the “Borrowers”), each lender from time to time party hereto (collectively, the “Lenders” and individually, a “Lender”), each L/C Issuer party hereto and JPMORGAN CHASE BANK, N.A., as Administrative Agent, Collateral Agent and an L/C Issuer.

## **PRELIMINARY STATEMENTS**

WHEREAS, the Borrowers have requested that, upon the satisfaction (or waiver) in full of the conditions precedent set forth in the applicable provisions of Article IV below, the applicable Lenders (a) make Term Loans to the Borrowers in an aggregate principal amount of \$2,350,000,000 under the Initial Term Commitment and (b) make available to the Borrowers the Closing Date Revolving Credit Facility in an aggregate principal amount of \$1,250,000,000 for the making, from time to time, of Revolving Credit Loans and the issuance, from time to time, of Letters of Credit, in each case, on the terms and subject to the conditions set forth in this Agreement; and

WHEREAS, the proceeds of the initial Borrowings hereunder will be used to fund the Special Dividend and the Spin-off Transactions, to pay the Transaction Costs, and for other general corporate purposes of the Parent Borrower and its Subsidiaries, in each case, as further described herein.

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

## **ARTICLE I**

### **DEFINITIONS AND ACCOUNTING TERMS**

Section 1.01 Defined Terms. As used in this Agreement (including the introductory paragraphs and recitals), the following terms have the meanings set forth below:

“Acceleration” has the meaning specified in Section 8.01(e).

“Acquired Indebtedness” means, with respect to any specified Person, (a) Indebtedness of any other Person existing at the time such other Person is merged, amalgamated or consolidated with or into or becomes a Restricted Subsidiary of such specified Person, whether or not such Indebtedness is Incurred in connection with, or in contemplation of, such other Person merging, amalgamating or consolidating with or into, or becoming a Restricted Subsidiary of, such specified Person and (b) Indebtedness secured by a Lien encumbering any asset acquired by such specified Person.

“Acquisition Holiday” has the meaning specified in Section 7.08.

“Acquisition Ratio Debt” has the meaning specified in clause (g) of the definition of “Permitted Debt”.

“Additional Escrow Amount” means an amount equal to (a) all interest that could accrue on any Escrow Debt from and including the date of issuance thereof to and including the date of any potential mandatory redemption to occur if the proceeds of such Escrow Debt are not released from the applicable Escrow Account, *plus* (b) the amount of any original issue discount on such Escrow Debt, *plus* (c) all fees and expenses that are incurred in connection with the issuance of such Escrow Debt and all fees, expenses or other amounts payable in connection with any redemption of such Escrow Debt.

“Administrative Agent” means JPMorgan, acting through such of its Affiliates or branches as it may designate, in its capacity as administrative agent under any of the Loan Documents, and shall include any successor administrative agent appointed pursuant to Section 9.09.

“Administrative Agent’s Office” means the Administrative Agent’s address and, as appropriate, account as set forth on Schedule 10.02 or such other address or account as the Administrative Agent may from time to time notify the Borrowers and the Lenders.

“Administrative Questionnaire” means an Administrative Questionnaire in substantially the form of Exhibit D-2 or any other form approved by the Administrative Agent.

“Affected Financial Institution” means (a) any EEA Financial Institution or (b) any UK Financial Institution.

“Affiliate” of any specified Person means any other Person directly or indirectly controlling or controlled by or under direct or indirect common control with such specified Person. For purposes of this definition, “control” (including, with correlative meanings, the terms “controlling,” “controlled by” and “under common control with”), as used with respect to any Person, means the possession, directly or indirectly, of the power to direct or cause the direction of the management or policies of such Person, whether through the ownership of voting securities, by agreement or otherwise. For the avoidance of doubt, following the consummation of the Spin-off Transactions, none of DuPont and its Subsidiaries or any owner of Equity Interests of DuPont or its Subsidiaries, shall be deemed to be an Affiliate of the Parent Borrower or any of its Subsidiaries by virtue only of receiving Equity Interests in the Parent Borrower in connection with the Spin-off Transactions.

“Affiliate Transaction” has the meaning specified in Section 7.11(a).

“Agent-Related Distress Event” means, with respect to the Administrative Agent, the Collateral Agent or any Person that directly or indirectly controls the applicable Agent (each, a “Distressed Agent-Related Person”), a voluntary or involuntary case with respect to such Distressed Agent-Related Person under any Debtor Relief Law is commenced, or a custodian, conservator, receiver or similar official is appointed for such Distressed Agent-Related Person or any substantial part of such Distressed Agent-Related Person’s assets, or such Distressed Agent-Related Person makes a general assignment for the benefit of creditors or is otherwise adjudicated as, or determined by any Governmental Authority having regulatory authority over such Distressed Agent-Related Person to be, insolvent or bankrupt; provided that an Agent-Related Distress Event shall not be deemed to have occurred solely by virtue of the ownership or acquisition of any Equity Interests in the Administrative Agent, the Collateral Agent or any Person that directly or indirectly controls the applicable Agent by a Governmental Authority or an instrumentality thereof, so long as such ownership interest does not result in or provide the Administrative Agent or Collateral Agent with immunity from the jurisdiction of courts within the United States or from the enforcement of judgments or writs of attachment on its assets or permit the Administrative Agent or Collateral Agent (or such Governmental Authority or instrumentality) to reject, repudiate, disavow or disaffirm any contracts or agreements made with the Administrative Agent or the Collateral Agent.

“Agent-Related Persons” means, with respect to any Agent, that Agent, together with its Related Parties.

“Agents” means, collectively, the Administrative Agent, the Collateral Agent, the Arrangers, the Incremental Arrangers and the Supplemental Agents (if any).

“Aggregate Commitments” means the Commitments of all the Lenders.

“Agreement” means this credit agreement.

“Agreement Currency” has the meaning specified in Section 10.23.

“Agreed Security Principles” means the Agreed Security Principles set forth on Schedule 1.12.

“All-in Yield” means, with respect to any Indebtedness, the yield of such Indebtedness, whether in the form of interest rate, margin, OID, upfront fees, index floors or otherwise, in each case payable by the Borrowers generally to lenders; provided that OID and upfront fees shall be equated to interest rate assuming a four (4)-year life to maturity, or, if shorter, the actual weighted average life to maturity, as the context requires, and shall not include (a) arrangement fees, structuring fees, ticking fees, commitment fees, unused line fees, underwriting fees and any amendment and similar fees (not paid or payable generally to the relevant lenders but payable to the relevant arrangers (or their Affiliates)) and (b) any other fee that is not paid generally to all relevant lenders ratably; provided that if the applicable interest rate in respect of any Indebtedness of a like currency includes an index floor greater than the index floor applicable to the Initial Term Loans, such differential between interest rate floors shall be equated to All-in Yield for purposes of determining the All-in Yield of such Indebtedness, but only to the extent an increase in the interest rate floor applicable to the Initial Term Loans would cause an increase in the All-in Yield then applicable to the Initial Term Loans, and in such case the interest rate floor (but not the interest rate margin) applicable to the Initial Term Loans shall be increased to the extent of such differential between interest rate floors.

“Anti-Corruption Laws” has the meaning set forth in Section 5.20.

“Applicable Commitment Fee” means a percentage per annum equal to (a) from the Closing Date until the date of the first Interest Period occurring after the date on which a Compliance Certificate is delivered pursuant to Section 6.02(b) for the first full fiscal quarter after the Closing Date, 0.20% per annum, and (b) thereafter, the applicable percentage per annum set forth below, as determined by reference to Consolidated First Lien Net Leverage Ratio, as set forth in the most recent Compliance Certificate received by the Administrative Agent pursuant to Section 6.02(b):

**Applicable Commitment Fee**

| Pricing Level | Consolidated First Lien<br>Net Leverage Ratio | Applicable<br>Commitment Fee |
|---------------|-----------------------------------------------|------------------------------|
| 1             | ≤ 1.00:1.00                                   | 0.10%                        |
| 2             | > 1.00:1.00 and ≤ 2.00:1.00                   | 0.15%                        |
| 3             | > 2.00:1.00 and ≤ 3.00:1.00                   | 0.20%                        |
| 4             | > 3.00:1.00 and ≤ 4.00:1.00                   | 0.25%                        |
| 5             | > 4.00:1.00                                   | 0.30%                        |

Any increase or decrease in the Applicable Commitment Fee resulting from a change in the Consolidated First Lien Net Leverage Ratio shall become effective as of the third Business Day immediately following the date the applicable Compliance Certificate is delivered pursuant to Section 6.02(b); provided, however, that “Pricing Level 5” shall apply without regard to the Consolidated First Lien Net Leverage Ratio at any time after the date on which any annual or quarterly financial statement was required to have been delivered pursuant to Section 6.01(a) or Section 6.01(b) but was not delivered (or the Compliance Certificate related to such financial statements was required to have been delivered pursuant to Section 6.02(b) but was not delivered), commencing with the first Business Day immediately following such date and continuing until the first Business Day immediately following the date on which such financial statements (or, if later, the Compliance Certificate related to such financial statements) are delivered.

“Applicable Discount” has the meaning specified in the definition of “Dutch Auction.”

“Applicable Intercreditor Arrangements” means the Intercreditor Agreement and any other customary intercreditor arrangements that are reasonably satisfactory to the Administrative Agent and the Borrower Representative, it being understood that the form first lien/second lien intercreditor agreement attached as Exhibit G-1 hereto and the form pari passu intercreditor agreement attached as Exhibit G-2 hereto are satisfactory to the Administrative Agent.

“Applicable Period” has the meaning set forth in Section 1.02(l).

“Applicable Rate” means a percentage per annum equal to (a) with respect to Initial Term Loans, 2.00% per annum for Term Benchmark Loans and 1.00% per annum for Base Rate Loans and (b) with respect to Revolving Credit Loans, (i) from the Closing Date until the date of the first Interest Period occurring after the date on which a Compliance Certificate is delivered pursuant to Section 6.02(b) for the first full fiscal quarter after the Closing Date, 1.75% per annum for Term Benchmark Loans, and 0.75% per annum for Base Rate Loans, and (ii) thereafter, the applicable percentage per annum set forth below, as determined by reference to Consolidated First Lien Net Leverage Ratio, as set forth in the most recent Compliance Certificate received by the Administrative Agent pursuant to Section 6.02(b):

**Applicable Rate for Revolving Credit Loans**

| Pricing Level | Consolidated First Lien<br>Net Leverage Ratio | Term Benchmark<br>Loans | Base Rate Loans |
|---------------|-----------------------------------------------|-------------------------|-----------------|
| 1             | ≤ 1.00:1.00                                   | 1.25%                   | 0.25%           |
| 2             | > 1.00:1.00 and ≤ 2.00:1.00                   | 1.50%                   | 0.50%           |
| 3             | > 2.00:1.00 and ≤ 3.00:1.00                   | 1.75%                   | 0.75%           |
| 4             | > 3.00:1.00 and ≤ 4.00:1.00                   | 2.00%                   | 1.00%           |
| 5             | > 4.00:1.00                                   | 2.25%                   | 1.25%           |

Any increase or decrease in the Applicable Rate resulting from a change in the Consolidated First Lien Net Leverage Ratio shall become effective as of the third Business Day immediately following the date the applicable Compliance Certificate is delivered pursuant to Section 6.02(b); provided, however, that “Pricing Level 5” shall apply without regard to the Consolidated First Lien Net Leverage Ratio at any time after the date on which any annual or quarterly financial statement was required to have been delivered pursuant to Section 6.01(a) or Section 6.01(b) but was not delivered (or the Compliance Certificate related to such financial statements was required to have been delivered pursuant to Section 6.02(b) but was not delivered), commencing with the first Business Day immediately following such date and continuing until the first Business Day immediately following the date on which such financial statements (or, if later, the Compliance Certificate related to such financial statements) are delivered.

“Appropriate Lender” means, at any time, (a) with respect to any Term Facility or the Revolving Credit Facility, a Lender that has a Commitment with respect to such Facility or holds a Term Loan under such Term Facility or a Revolving Credit Loan at such time, (b) with respect to the Letter of Credit Sublimit, (i) each L/C Issuer and (ii) if any Letters of Credit have been issued pursuant to Section 2.03(a), the Revolving Credit Lenders, (c) with respect to any New Term Facility, a Lender that holds a New Term Loan at such time, (d) with respect to any New Revolving Facility, a Lender that holds a New Revolving Loan or has a New Revolving Commitment with respect to such New Revolving Facility at such time and (e) with respect to any Specified Refinancing Debt, a Lender that holds Specified Refinancing Term Loans or Specified Refinancing Revolving Loans.

“Approved Fund” means any Fund that is administered, advised or managed by (a) a Lender, (b) an Affiliate of a Lender or (c) an entity or an Affiliate of an entity that administers, advises or manages a Lender.

“Arrangers” means, collectively, the Term Arrangers and the Revolving Arrangers and the Syndication Agent.

“Asset Sale” means:

- (1) the sale, conveyance, transfer or other disposition (whether in a single transaction or a series of related transactions) of property or assets (including by way of a Sale/Leaseback Transaction) of the Borrowers or any Restricted Subsidiary, or
- (2) the issuance or sale of Equity Interests (other than preferred stock and Disqualified Stock of Restricted Subsidiaries issued in compliance with Section 7.01, directors’ qualifying shares or shares or interests required to be held by foreign nationals or other third parties to the extent required by applicable law, or issuances by the Parent Borrower of any Capital Stock) of any Restricted Subsidiary (other than to the Borrowers or another Restricted Subsidiary) (whether in a single transaction or a series of related transactions),

(each of the foregoing referred to in this definition as a “Disposition” and the term “Dispose” shall have a correlative meaning thereto). Notwithstanding the preceding, none of the following items will be deemed to be an Asset Sale:

- (a) a sale, exchange or other disposition of cash, Cash Equivalents or Investment Grade Securities, or of obsolete, damaged, unnecessary, unsuitable or worn out equipment or other assets in the ordinary course of business, or dispositions of property no longer used, useful or economically practicable to maintain in the conduct of the business of the Borrowers and the Restricted Subsidiaries (including allowing any registrations or any applications for registration of any intellectual property or other intellectual property rights to lapse or become abandoned);
- (b) any Disposition in compliance with the provisions of Section 7.03;
- (c) any Restricted Payment that is permitted to be made, and is made, pursuant to Section 7.05 or any Permitted Investment;
- (d) other than in connection with the determination of Leverage Excess Proceeds, any Disposition of assets or issuance or sale of Equity Interests of any Restricted Subsidiary, in a single transaction or series of related transactions, with an aggregate Fair Market Value of less than or equal to the greater of (i) \$195,000,000 and (ii) 15% of the EBITDA Grower Amount;
- (e) any transfer or Disposition of property or assets or issuance or sale of Equity Interests or an exclusive license by a Restricted Subsidiary to the Borrowers or by the Borrowers or a Restricted Subsidiary to another Restricted Subsidiary; provided that in the case of any such Disposition or exclusive license made by a Loan Party to a Restricted Subsidiary that is not a Loan Party, the aggregate Fair Market Value of such Dispositions and exclusive licenses, together with Investments in Restricted Subsidiaries that are not Loan Parties under clause (2) of the definition of “Permitted Investments”, shall not exceed the greater of (x) \$975,000,000 and (y) 75% of the EBITDA Grower Amount;

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- (f) the creation of any Lien permitted under this Agreement;
  - (g) any issuance, sale, pledge or other disposition of Equity Interests in, or Indebtedness or other securities of, an Unrestricted Subsidiary;
  - (h) the sale, lease, assignment, license or sublease of inventory, equipment, accounts receivable, notes receivable or other current assets held for sale in the ordinary course of business or the conversion of accounts receivable and related assets to notes receivable or dispositions of accounts receivable and related assets in connection with the collection or compromise thereof;
  - (i) the lease, assignment, license, sublicense or sublease of any real or personal property in the ordinary course of business;
  - (j) a sale, assignment or transfer of Receivables Assets, or participations therein, to a Receivables Subsidiary in a Qualified Receivables Financing or to any other Person in a Qualified Receivables Factoring;
  - (k) a sale, assignment or other transfer of Receivables Assets, or participations therein, and related assets by a Receivables Subsidiary in a Qualified Receivables Financing or a Qualified Receivables Factoring;
  - (l) any exchange of assets for Related Business Assets (including a combination of Related Business Assets and a de minimis amount of cash or Cash Equivalents) of comparable or greater market value than the assets exchanged, as determined in good faith by the Borrowers;
  - (m)
    - (i) non-exclusive licenses, sublicenses or cross-licenses of intellectual property, other IP Rights or other general intangibles and
    - (ii) exclusive licenses, sublicenses or cross-licenses of intellectual property, other intellectual property rights or other general intangibles entered into in the ordinary course of business of the Borrowers and the Restricted Subsidiaries of the Parent Borrower;
  - (n) subject to clause (b) of the definition of “Permitted Debt”, any Sale/Leaseback Transaction with respect to property acquired or built after the Closing Date by the Borrowers or any Restricted Subsidiaries; provided that such sale is for at least Fair Market Value (as determined on the date on which the definitive agreement for such Sale/Leaseback Transaction was entered into);
  - (o) the surrender or waiver of obligations of trade creditors or customers or other contract rights that were incurred in the ordinary course of business of the Borrowers or any Restricted Subsidiary of the Parent Borrower, including pursuant to any plan of reorganization or similar arrangement upon the bankruptcy or insolvency of any trade creditor or customer or compromise, settlement, release or surrender of a contract, tort or other litigation claim, arbitration or other disputes;
  - (p) Dispositions arising from foreclosures, condemnations, eminent domain, seizure, nationalization or any similar action with respect to assets, dispositions of property subject to casualty events and (except for purposes of calculating Net Cash Proceeds of any Asset Sale under Sections 7.04(b) and (c)) Dispositions necessary or advisable (as determined by the Parent Borrower in good faith) in order to consummate any acquisition of any Person, business or assets;



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- (q) Dispositions of Investments (including Equity Interests) in joint ventures to the extent required by, or made pursuant to customary buy/sell arrangements or rights of first refusal between, the joint venture parties set forth in joint venture arrangements and similar binding arrangements;
  - (r) to the extent allowable under Section 1031 of the Code, any exchange of like property (excluding any boot thereon) for use in a Similar Business;
  - (s) the issuance of directors' qualifying shares and shares issued to foreign nationals to the extent required by applicable law;
  - (t) Dispositions of property to the extent that (i) such property is exchanged for credit against the purchase price of similar replacement property that is purchased within ninety (90) days of such disposition or (ii) the proceeds of such Asset Sale are applied within ninety (90) days of such disposition to the purchase price of such replacement property (which replacement property is purchased within ninety (90) days of such disposition);
  - (u) a sale or transfer of equipment receivables, or participations therein, and related assets;
  - (v) any Dispositions in connection with the Transactions;
  - (w) (i) the Disposition of assets acquired pursuant to any Permitted Investment (including any Permitted Acquisition), which assets are not used or useful to the core or principal business of the Parent Borrower and the Restricted Subsidiaries; and (ii) the Disposition of assets that are necessary or advisable, in the good faith judgment of the Parent Borrower, in order to obtain the approval of any Governmental Authority to consummate or avoid the prohibition or other restrictions on the consummation of any Permitted Investment or acquisition (including any Permitted Acquisition);
  - (x) (i) any issuances of Convertible Indebtedness and (ii) any Dispositions in connection with settling conversions of Convertible Indebtedness;
  - (y) Dispositions of assets or Equity Interests; provided that (i) such Disposition complies with Section 7.04(a), (ii) the Net Cash Proceeds of such Dispositions do not exceed an aggregate amount of the greater of (i) \$230,000,000 and (ii) 17.5% of the EBITDA Grower Amount, (iii) such Dispositions are consummated within twenty-four (24) months following the Closing Date and (iv) no Event of Default shall have occurred or be continuing or result therefrom;
  - (z) Dispositions set forth on Schedule 1.1(195)(xii) of the Separation and Distribution Agreement;
  - (aa) Dispositions of Equity Interests in any Subsidiary acquired in connection with a Permitted Acquisition or other Permitted Investment, in each case pursuant to any stock appreciation rights, plans, equity incentive or achievement plans or any similar plans or the exercise of warrants, options or other securities convertible into or exchangeable for the Equity Interests of such Subsidiary, so long as such rights, plans, warrants, options or other securities were not entered into or issued in connection with or in contemplation of such Person becoming a Subsidiary; and

(bb) any Disposition among the Borrower Parties in connection with a Permitted Restructuring Transaction;

provided that, notwithstanding anything in this definition of “Asset Sale” to the contrary or in any other Loan Document to the contrary, no Borrower Party shall be permitted to transfer, or exclusively license or otherwise Dispose of, directly or indirectly, (x) any Material Intellectual Property constituting Collateral to any Restricted Subsidiary that is not a Loan Party or (y) any Material Intellectual Property to any Unrestricted Subsidiary, except (x) pursuant to the foregoing clause (m)(i) above or (y) to a Restricted Subsidiary that is not a Loan Party in the ordinary course of business or consistent with past practice in support of the business operation of the Parent Borrower and its Restricted Subsidiaries and not in furtherance of any third-party financing substantially contemporaneously incurred and secured by such Material Intellectual Property so transferred, exclusively licensed or Disposed of.

For purposes of the foregoing sentence, if any Disposition (or a portion thereof) would be permitted pursuant to one or more provisions described above, the Parent Borrower may divide and classify such Disposition (or a portion thereof) in any manner that complies with the foregoing sentence and may later divide and reclassify any such Disposition so long as the Disposition (as so divided and/or reclassified) would be permitted to be made in reliance on the applicable exception as of the date of such reclassification.

For the avoidance of doubt, (A) the unwinding of Swap Contracts, Permitted Bond Hedge Transactions or Permitted Warrant Transactions shall not be deemed to constitute an Asset Sale and (B) any disposition of property to a Divided LLC pursuant to an LLC Division shall be a Disposition.

“Asset Sale Prepayment Percentage” has the meaning specified in Section 2.05(b)(ii).

“Assignee Group” means two or more Eligible Assignees that are Affiliates of one another or two or more Approved Funds managed by the same investment advisor.

“Assignment and Assumption” means an Assignment and Assumption substantially in the form of Exhibit D-1, or otherwise in form and substance reasonably acceptable to the Administrative Agent.

“Auction” has the meaning specified in the definition of “Dutch Auction.”

“Auction Amount” has the meaning specified in the definition of “Dutch Auction.”

“Auction Notice” has the meaning specified in the definition of “Dutch Auction.”

“Auto-Renewal Letter of Credit” has the meaning specified in Section 2.03(c)(iii).

“Available Amount” has the meaning specified in Section 7.05(a).

“Available Tenor” means, as of any date of determination and with respect to the then-current Benchmark, any tenor for such Benchmark (or component thereof) or payment period for interest calculated with reference to such Benchmark (or component thereof), as applicable, that is or may be used for determining the length of an Interest Period for any term rate or otherwise, for determining any frequency of making payments of interest calculated pursuant to this Agreement as of such date and not including, for the avoidance of doubt, any tenor for such Benchmark that is then-removed from the definition of “Interest Period” pursuant to clause (e) of Section 3.04.

“Bail-In Action” means the exercise of any Write-down and Conversion Powers.

“Bail-In Legislation” means:

- (a) with respect to any EEA Member Country implementing Article 55 of Directive 2014/59/EU of the European Parliament and of the Council of the European Union, the implementing law, regulation, rule or requirement for such EEA Member Country from time to time that is described in the EU Bail-In Legislation Schedule; and
- (b) with respect to the United Kingdom, the UK Bail-In Legislation.

“Base Rate” means, for any day, a rate per annum equal to the greatest of (a) the Prime Rate in effect on such day, (b) the NYFRB Rate in effect on such day *plus*  $\frac{1}{2}$  of 1.00% and (c) the Term SOFR Rate for a one month Interest Period as published two (2) U.S. Government Securities Business Days prior to such day (or if such day is not a U.S. Government Securities Business Day, the immediately preceding U.S. Government Securities Business Day) *plus* 1.00%; provided that for the purpose of this definition, the Term SOFR Rate for any day shall be based on the Term SOFR Reference Rate at approximately 5:00 a.m. Chicago time on such day (or any amended publication time for the Term SOFR Reference Rate, as specified by the CME Term SOFR Administrator in the Term SOFR Reference Rate methodology). Any change in the Base Rate due to a change in the Prime Rate, the NYFRB Rate or the Term SOFR Rate shall be effective from and including the effective date of such change in the Prime Rate, the NYFRB Rate or the Term SOFR Rate, respectively. If the Base Rate is being used as an alternate rate of interest pursuant to Section 3.04 (for the avoidance of doubt, only until the Benchmark Replacement has been determined pursuant to Section 3.04(b)), then the Base Rate shall be the greater of clauses (a) and (b) above and shall be determined without reference to clause (c) above. For the avoidance of doubt, if the Base Rate as determined pursuant to the foregoing would be less than 0%, such rate shall be deemed to be 0% for purposes of this Agreement.

“Base Rate Loan” means a Loan that bears interest based on the Base Rate.

“Benchmark” means, initially, with respect to any Term Benchmark Loan, the Term SOFR Reference Rate; provided that if a Benchmark Transition Event, and the related Benchmark Replacement Date have occurred with respect to the Term SOFR Reference Rate or the then-current Benchmark, then “Benchmark” means the applicable Benchmark Replacement to the extent that such Benchmark Replacement has replaced such prior benchmark rate pursuant to clause (b) of Section 3.04.

“Benchmark Replacement” means, for any Available Tenor, the first alternative set forth in the order below that can be determined by the Administrative Agent for the applicable Benchmark Replacement Date:

- (1) the Daily Simple SOFR; and
- (2) the sum of: (a) the alternate benchmark rate that has been selected by the Administrative Agent and the Borrower Representative as the replacement for the then-current Benchmark for the applicable Corresponding Tenor giving due consideration to (i) any selection or recommendation of a replacement benchmark rate or the mechanism for determining such a rate by the Relevant Governmental Body or (ii) any evolving or then-prevailing market convention for determining a benchmark rate as a replacement for the then-current Benchmark for syndicated credit facilities at such time in the United States and (b) the related Benchmark Replacement Adjustment;

If the Benchmark Replacement as determined pursuant to clause (1) or (2) above would be less than the Floor, the Benchmark Replacement will be deemed to be the Floor for the purposes of this Agreement and the other Loan Documents.

“Benchmark Replacement Adjustment” means, with respect to any replacement of the then-current Benchmark with an Unadjusted Benchmark Replacement for any applicable Interest Period and Available Tenor for any setting of such Unadjusted Benchmark Replacement, the spread adjustment, or method for calculating or determining such spread adjustment, (which may be a positive or negative value or zero) that has been selected by the Administrative Agent and the Parent Borrower for the applicable Corresponding Tenor giving due consideration to (a) any selection or recommendation of a spread adjustment, or method for calculating or determining such spread adjustment, for the replacement of such Benchmark with the applicable Unadjusted Benchmark Replacement by the Relevant Governmental Body on the applicable Benchmark Replacement Date and/or (b) any evolving or then-prevailing market convention for determining a spread adjustment, or method for calculating or determining such spread adjustment, for the replacement of such Benchmark with the applicable Unadjusted Benchmark Replacement for syndicated credit facilities at such time in the United States.

“Benchmark Replacement Conforming Changes” means with respect to any Benchmark Replacement, and/or any Term Benchmark Loan, any technical, administrative or operational changes (including changes to the definition of “Base Rate,” the definition of “Business Day,” the definition of “U.S. Government Securities Business Day,” the definition of “Interest Period,” timing and frequency of determining rates and making payments of interest, timing of borrowing requests or prepayment, conversion or continuation notices, the applicability and length of lookback periods, the applicability of breakage provisions, and other technical, administrative or operational matters) that the Administrative Agent determines in its reasonable discretion (in consultation with the Borrower Representative) may be appropriate to reflect the adoption and implementation of such Benchmark and to permit the administration thereof by the Administrative Agent in a manner substantially consistent with market practice (or, if the Administrative Agent reasonably decides that adoption of any portion of such market practice is not administratively feasible or if the Administrative Agent reasonably determines that no market practice for the administration of such Benchmark Replacement exists, in such other manner of administration as the Administrative Agent determines is reasonably necessary in connection with the administration of this Agreement and the other Loan Documents).

“Benchmark Replacement Date” means with respect to any Benchmark, the earliest to occur of the following events with respect to such then-current Benchmark:

- (1) in the case of clause (1) or (2) of the definition of “Benchmark Transition Event,” the later of (a) the date of the public statement or publication of information referenced therein and (b) the date on which the administrator of such Benchmark (or the published component used in the calculation thereof) permanently or indefinitely ceases to provide all Available Tenors of such Benchmark (or such component thereof); or
- (2) in the case of clause (3) of the definition of “Benchmark Transition Event,” the first date on which such Benchmark (or the published component used in the calculation thereof) has been determined and announced by the regulatory supervisor for the administrator of such Benchmark (or such component thereof) to be no longer representative; provided that such non-representativeness will be determined by reference to the most recent statement or publication referenced in such clause (3) and even if any Available Tenor of such Benchmark (or such component thereof) continues to be provided on such date.

For the avoidance of doubt, (i) if the event giving rise to the Benchmark Replacement Date occurs on the same day as, but earlier than, the Reference Time in respect of any determination, the Benchmark Replacement Date will be deemed to have occurred prior to the Reference Time for such determination and (ii) the “Benchmark Replacement Date” will be deemed to have occurred in the case of clause (1) or (2) with respect to any Benchmark upon the occurrence of the applicable event or events set forth therein with respect to all then-current Available Tenors of such Benchmark (or the published component used in the calculation thereof).

“Benchmark Transition Event” means, with respect to any Benchmark, the occurrence of one or more of the following events with respect to such then-current Benchmark:

- (1) a public statement or publication of information by or on behalf of the administrator of such Benchmark (or the published component used in the calculation thereof) announcing that such administrator has ceased or will cease to provide all Available Tenors of such Benchmark (or such component thereof), permanently or indefinitely; provided that, at the time of such statement or publication, there is no successor administrator that will continue to provide any Available Tenor of such Benchmark (or such component thereof);
- (2) a public statement or publication of information by the regulatory supervisor for the administrator of such Benchmark (or the published component used in the calculation thereof), the FRB, the NYFRB, the CME Term SOFR Administrator, an insolvency official with jurisdiction over the administrator for such Benchmark (or such component), a resolution authority with jurisdiction over the administrator for such Benchmark (or such component) or a court or an entity with similar insolvency or resolution authority over the administrator for such Benchmark (or such component), in each case, which states that the administrator of such Benchmark (or such component) has ceased or will cease to provide all Available Tenors of such Benchmark (or such component thereof) permanently or indefinitely; provided that, at the time of such statement or publication, there is no successor administrator that will continue to provide any Available Tenor of such Benchmark (or such component thereof); or
- (3) a public statement or publication of information by the regulatory supervisor for the administrator of such Benchmark (or the published component used in the calculation thereof) announcing that all Available Tenors of such Benchmark (or such component thereof) are no longer, or as of a specified future date will no longer be, representative.

For the avoidance of doubt, a “Benchmark Transition Event” will be deemed to have occurred with respect to any Benchmark if a public statement or publication of information set forth above has occurred with respect to each then-current Available Tenor of such Benchmark (or the published component used in the calculation thereof).

“Benchmark Unavailability Period” means, with respect to any Benchmark, the period (if any) (x) beginning at the time that a Benchmark Replacement Date pursuant to clauses (1) or (2) of that definition has occurred if, at such time, no Benchmark Replacement has replaced such then-current Benchmark for all purposes hereunder and under any Loan Document in accordance with Section 3.04 and (y) ending at the time that a Benchmark Replacement has replaced such then-current Benchmark for all purposes hereunder and under any Loan Document in accordance with Section 3.04.

“Beneficial Owner” has the meaning given to that term in Rule 13d-3 and Rule 13d-5 under the Exchange Act, in each case as in effect on the date hereof, except that in calculating the beneficial ownership of any particular “person” (as that term is used in Section 13(d)(3) of the Exchange Act, as in effect on the date hereof), such “person” will not be deemed to have beneficial ownership of any securities that such “person” has the right to acquire or vote only upon the happening of any future event or contingency (including the passage of time) that has not yet occurred. The terms “beneficial ownership,” “beneficially owns” and “beneficially owned” have a corresponding meaning.

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“Beneficial Ownership Certification” means a certification regarding beneficial ownership required by the Beneficial Ownership Regulation.

“Beneficial Ownership Regulation” means 31 C.F.R. § 1010.230.

“Benefit Plans” has the meaning specified in Section 9.18(d).

“BHC Act Affiliate” of a party means an “affiliate” (as such term is defined under and interpreted in accordance with, 12 U.S.C. 1841(k)) of such party.

“Blocked Person” has the meaning specified in Section 10.07(b)(v).

“Board of Directors” means as to any Person, the board of directors, board of managers, sole member or managing member or other governing body of such Person, or if such Person is owned or managed by a single entity or has a general partner, the board of directors, board of managers, sole member or managing member or other governing body of such entity or general partner, or in each case, any duly authorized committee thereof, and the term “directors” means members of the Board of Directors.

“Bona Fide Debt Fund” shall mean any bona fide debt fund, investment vehicle, regulated banking entity or non-regulated lending entity that is primarily engaged in making, purchasing, holding or otherwise investing in commercial loans or bonds and/or similar extensions of credit in the ordinary course of business.

“Borrower Designation Agreement” means, with respect to any Subsidiary, an agreement in substantially the form of Exhibit L hereto or such other form as agreed to by the Administrative Agent and the Borrower Representative, signed by such Subsidiary.

“Borrower Materials” has the meaning specified in Section 6.02.

“Borrower Parties” means the collective reference to the Parent Borrower and the Restricted Subsidiaries, and “Borrower Party” means any one of them.

“Borrower Representative” means the entity appointed to act on behalf of the Borrowers pursuant to Section 1.14.

“Borrower Termination Agreement” means, with respect to any Subsidiary Borrower, an agreement in substantially the form of Exhibit M hereto or such other form as agreed to by the Administrative Agent and the Borrower Representative, signed by such Subsidiary Borrower.

“Borrowers” has the meaning specified in the introductory paragraph to this Agreement.

“Borrowing” means a Revolving Credit Borrowing or a Term Borrowing, as the context may require.

“Business Day”: means, any day (other than a Saturday or a Sunday) on which banks are open for business in New York City; provided that, in addition to the foregoing, a Business Day shall be in relation to Loans referencing the Term SOFR Rate or the Daily Simple SOFR and any interest rate settings, funding, disbursements, settlements or payments of any such Loans referencing the Term SOFR Rate or the Daily Simple SOFR or any other dealings of such Loans referencing the Term SOFR Rate or the Daily Simple SOFR, any such day that is a U.S. Government Securities Business Day.

“Capital Stock” means:

- (1) in the case of a corporation or a company, corporate stock or share capital;
- (2) in the case of an association or business entity, any and all shares, interests, participations, rights or other equivalents (however designated) of corporate stock;
- (3) in the case of a partnership or limited liability company, partnership or membership interests (whether general or limited); and
- (4) any other interest or participation that confers on a Person the right to receive a share of the profits and losses of, or distributions of assets of, the issuing Person (it being understood and agreed, for the avoidance of doubt, that “cash-settled phantom appreciation programs” in connection with employee benefits that do not require a dividend or distribution shall not constitute Capital Stock).

“Capitalized Lease Obligation” means at the time any determination thereof is to be made, the amount of the liability in respect of any lease that would at such time be required to be capitalized and reflected as a finance lease on a balance sheet (excluding the footnotes thereto) in accordance with GAAP (subject, for the avoidance of doubt, to Section 1.03(c)).

“Cash-Capped Incremental Facility” has the meaning specified in Section 2.14(a).

“Cash Collateral” shall have a meaning correlative to the following and shall include the proceeds of such cash collateral and other credit support.

“Cash Collateralize” means to pledge and deposit with or deliver to the Administrative Agent, for the benefit of the Administrative Agent or L/C Issuer (as applicable) and the Lenders, as collateral for L/C Obligations or obligations of Lenders to fund participations in respect of either thereof (as the context may require), cash, Cash Equivalents (if reasonably acceptable to the Administrative Agent and the applicable L/C Issuer) or deposit account balances or, if the Administrative Agent or L/C Issuer benefiting from such collateral shall agree in its reasonable discretion, other credit support (including by backstop with a letter of credit reasonably satisfactory to the applicable L/C Issuer or by being deemed reissued under another agreement reasonably acceptable to the applicable L/C Issuer), in each case pursuant to documentation consistent with Section 2.16 and in form and substance reasonably satisfactory to (a) the Administrative Agent and (b) the applicable L/C Issuer (which documents are hereby consented to by the Lenders).

“Cash Contribution Amount” means the aggregate amount of cash contributions made to the capital of the Borrowers or any Subsidiary Guarantor (other than from a Restricted Subsidiary) after the Closing Date.

“Cash Equivalents” means:

- (1) Dollars, the national currency of any participating member state of the European Union (as it is constituted on the Closing Date) and other currencies held by the Parent Borrower or any Subsidiaries in the ordinary course of business;
- (2) securities issued or directly guaranteed or insured by the government of the United States, the United Kingdom or any country that is a member of the European Union (as it is constituted on the Closing Date) or any agency or instrumentality thereof in each case with maturities not exceeding two years from the date of acquisition;

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- (3) money market deposits, certificates of deposit, time deposits and eurodollar time deposits with maturities of two (2) years or less from the date of acquisition, bankers' acceptances, in each case with maturities not exceeding two years, and overnight bank deposits, in each case with any commercial bank having capital and surplus in excess of \$250,000,000 in the case of domestic banks or \$100,000,000 (or the equivalent Dollar amount) in the case of foreign banks;
  - (4) repurchase obligations for underlying securities of the types described in clauses (2) and (3) above and clause (6) below entered into with any financial institution or securities dealers of recognized national standing meeting the qualifications specified in clause (3) above;
  - (5) commercial paper or variable or fixed rate notes issued by a corporation or other Person (other than an Affiliate of the Borrowers) rated at least "A-2" or "P-2" or the equivalent thereof by Moody's or S&P (or reasonably equivalent ratings of another internationally recognized ratings agency) and in each case maturing within two years after the date of acquisition;
  - (6) readily marketable direct obligations issued by any state, commonwealth or territory of the United States of America or any political subdivision or taxing authority thereof having an Investment Grade Rating from either Moody's or S&P (or reasonably equivalent ratings of another internationally recognized ratings agency) in each case with maturities not exceeding two years from the date of acquisition;
  - (7) Indebtedness issued by Persons with a rating of "A" or higher from S&P or "A-2" or higher from Moody's (or reasonably equivalent ratings of another internationally recognized ratings agency) in each case with maturities not exceeding two years from the date of acquisition, and marketable short-term money market and similar securities having a rating of at least "A-2" or "P-2" from either S&P or Moody's (or reasonably equivalent ratings of another internationally recognized ratings agency);
  - (8) investment funds investing at least 95% of their assets in investments of the types described in clauses (1) through (7) above and (9) and (10) below;
  - (9) Investments with average maturities of 12 months or less from the date of acquisition in money market funds rated AAA (or the equivalent thereof) or better by S&P or Aaa3 (or the equivalent thereof) or better by Moody's (or reasonably equivalent ratings of another internationally recognized ratings agency);
  - (10) in the case of investments by any Non-U.S. Subsidiary or investments made in a country outside the United States of America, other investments of comparable tenor and credit quality to those described in the foregoing clauses (1) through (9) customarily utilized in the countries where such Non-U.S. Subsidiary is located or in which such investment is made; and
  - (11) investments consistent with the Parent Borrower's investment policy as in effect on the date hereof, as provided in writing to the Administrative Agent on or prior to the Closing Date.

Notwithstanding the foregoing, Cash Equivalents shall include amounts denominated in currencies other than those set forth in clause (1) above; provided that such amounts are converted into any currency listed in clause (1) as promptly as practicable and in any event within ten (10) Business Days following the receipt of such amounts.



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“Cash Management Agreement” means any agreement or arrangement to provide Cash Management Services to any Loan Party.

“Cash Management Bank” means any Person that (a) at the time it enters into a Cash Management Agreement or within sixty (60) days thereafter, is a Lender or an Agent or an Affiliate of a Lender or an Agent, (b)(i) in the case of any Cash Management Agreement in effect on or prior to the Closing Date, is, as of the Closing Date or within sixty (60) days thereafter, a Lender or an Agent or an Affiliate of a Lender or an Agent and a party to a Cash Management Agreement, (ii) in the case of any Cash Management Agreement in effect on or prior to the date of any amendment, restatement or amendment and restatement to this Agreement (including any incremental amendment), is, as of the date of such amendment, restatement or amendment and restatement to this Agreement or within sixty (60) days thereafter, a Lender or an Agent or an Affiliate of a Lender or an Agent and a party to a Cash Management Agreement, (c) is a party to a Cash Management Agreement and whose long-term senior unsecured debt rating is A/A2 by S&P or Moody’s (or their equivalent) or higher or (d) is designated from time to time by the Borrower Representative in writing to the Administrative Agent.

“Cash Management Services” means any of the following to the extent not constituting a line of credit (other than an overnight draft facility that is not in default): automated clearing house transactions, treasury and/or cash management services, including treasury, depository, overdraft, credit, purchasing or debit card, non-card e-payables services, electronic funds transfer, treasury management services (including controlled disbursement services, overdraft automatic clearing house fund transfer services, return items and interstate depository network services), other demand deposit or operating account relationships, foreign exchange facilities and merchant services.

“Casualty Event” means any event that gives rise to the receipt by the Parent Borrower or any Restricted Subsidiary of any casualty insurance proceeds or condemnation awards or that gives rise to a taking by a Governmental Authority in respect of any equipment, fixed assets or real property (including any improvements thereon) to replace, restore or repair, or compensate for the loss of, such equipment, fixed assets or real property.

“Change of Control” means (a) the acquisition of beneficial ownership by any Person or group (within the meaning of the Exchange Act and the rules of the SEC thereunder) of Equity Interests representing more than 50% of the aggregate ordinary voting power represented by the issued and outstanding Equity Interests of the Parent Borrower; (b) the sale, lease or transfer, in one or a series of related transactions, of all or substantially all of the assets of the Parent Borrower and its Restricted Subsidiaries, taken as a whole, except in a transaction consummated in compliance with Section 7.03 (other than Section 7.03(f)); or (c) a “Change of Control” (or similar event) shall occur under any of the Senior Notes or any Permitted Refinancing thereof. Notwithstanding the foregoing, the consummation of the Transactions shall not constitute a Change of Control. For purposes of this definition, any direct or indirect holding company of the Parent Borrower shall not itself be considered a “person” or “group” for purposes of this definition; provided that no “person” or “group” beneficially owns, directly or indirectly, more than 50.0% of the total voting power of the Equity Interests of such holding company.

“Class” means, (a) with respect to Commitments or Loans, those of such Commitments or Loans that have the same terms and conditions and (b) with respect to Lenders, those of such Lenders that have Commitments or Loans of a particular Class.

“Clean-Up Period Termination Date” has the meaning specified in Section 8.03.

“Closing Date” means the first date on which all conditions specified in Section 4.01 are satisfied (or waived in accordance with Section 10.01), which date is October 31, 2025.

“Closing Date Revolving Credit Facility” means the Revolving Tranche established pursuant to Section 2.01(b) on the Closing Date.

“CME Term SOFR Administrator” means CME Group Benchmark Administration Limited as administrator of the forward-looking term Secured Overnight Financing Rate (SOFR) (or a successor administrator).

“Code” means the U.S. Internal Revenue Code of 1986, as amended from time to time.

“Collateral” means all of the “Collateral” (or functionally equivalent term) as defined in the Collateral Documents and all of the other property and assets that are or are purported to be subject to Liens in favor of (a) the Collateral Agent for the benefit of the Secured Parties and/or (b) the Secured Parties in their capacities as such (or any of them) to the extent required by applicable Law, in each case pursuant to the Collateral Documents.

“Collateral Agent” means JPMorgan, acting through such of its Affiliates or branches as it may designate, in its capacity as collateral agent for the Secured Parties under any of the Loan Documents, and shall include any successor collateral agent appointed pursuant to Section 9.09.

“Collateral Documents” means, collectively, the Security Agreements, each of the Intellectual Property Security Agreement, each of the collateral assignments, Security Agreement Supplements, Intellectual Property Security Agreement Supplements, security agreements, pledge agreements or other similar agreements delivered to the Collateral Agent pursuant to Section 4.01, Section 6.12, Section 6.14 or Section 6.16, and each of the other agreements, instruments or documents that creates or purports to create a Lien in favor of (a) the Collateral Agent for the benefit of the Secured Parties and/or (b) the Secured Parties in their capacities as such (or any of them) to the extent required by applicable Law.

“Commitment” means a Term Commitment and/or a Revolving Credit Commitment, as the context may require.

“Committed Loan Notice” means a notice of (a) a Term Borrowing, (b) a Revolving Credit Borrowing, (c) a conversion of Loans from one Type to the other or (d) a continuation of Term Benchmark Loans, pursuant to Section 2.02(a), which, if in writing, shall be substantially in the form of Exhibit A-1.

“Commodity Exchange Act” means the Commodity Exchange Act (7 U.S.C. § 1 *et seq.*), as amended from time to time, and any successor statute.

“Company Competitor” means any Person that competes with the business of the Borrowers and their Subsidiaries from time to time.

“Compliance Certificate” means a certificate substantially in the form of Exhibit C or such other form as may be agreed between the Borrowers and the Administrative Agent.

“Connection Income Taxes” means Other Connection Taxes that are imposed on or measured by net income (however denominated) or that are franchise Taxes or branch profits Taxes.

“Consolidated Current Assets” means, with respect to any Person and its Restricted Subsidiaries on a consolidated basis, all assets of such Person and its Restricted Subsidiaries on a consolidated basis that, in accordance with GAAP, would be classified as current assets on the balance sheet of a company conducting a business the same as or similar to that of such Person and its Restricted Subsidiaries on a consolidated basis, after deducting appropriate and adequate reserves therefrom in each case in which a reserve is proper in accordance with GAAP, but excluding (a) cash, (b) Cash Equivalents, (c) Swap

Contracts to the extent that the mark-to-market Swap Termination Value would be reflected as an asset on the consolidated balance sheet of such Person, (d) deferred financing fees, (e) amounts related to current or deferred taxes (but excluding assets held for sale, loans (permitted) to third parties, pension assets, deferred bank fees and derivative financial instruments) (so long as the items described in clauses (d) and (e) are non-cash items), (f) in the event that a Qualified Receivables Factoring or Qualified Receivables Financing is accounted for off balance sheet, (x) gross accounts receivable comprising part of the receivables and other related assets subject to such Qualified Receivables Factoring or Qualified Receivables Financing, as applicable *minus* (y) collection by such Person against the amounts sold pursuant to clause (x) and (g) the effects of adjustments pursuant to GAAP resulting from the application of recapitalization accounting or purchase accounting, as the case may be, in relation to any consummated acquisition.

“**Consolidated Current Liabilities**” means, with respect to any Person and its Restricted Subsidiaries on a consolidated basis, all liabilities in accordance with GAAP that would be classified as current liabilities on the consolidated balance sheet of such Person, but excluding (a) the current portion of Indebtedness (including the Swap Termination Value of any Swap Contracts) to the extent reflected as a liability on the consolidated balance sheet of such Person, (b) the current portion of interest, (c) accruals for current or deferred taxes based on income or profits, (d) accruals of any costs or expenses related to restructuring reserves or severance, (e) deferred revenue, (f) escrow account balances, (g) the current portion of pension liabilities, (h) liabilities in respect of unpaid earn-outs, (i) amounts related to derivative financial instruments and assets held for sale, (j) any L/C Obligations or Revolving Credit Loans and any letter of credit obligations, swing line loans or revolving loans under any other revolving credit facility, (k) the current portion of other long-term liabilities and (l) the effects of adjustments pursuant to GAAP resulting from the application of recapitalization accounting or purchase accounting, as the case may be, in relation to any consummated acquisition.

“**Consolidated EBITDA**” means, with respect to any Person and its Restricted Subsidiaries on a consolidated basis for any period, the Consolidated Net Income of such Person for such period:

- (1) *increased*, in each case (other than with respect to clause (k), (l) and (n) below) to the extent deducted (and not otherwise added back or excluded) in calculating such Consolidated Net Income (and without duplication), by:
  - (a) expense for Taxes paid or accrued (including in respect of repatriated funds and any future taxes or other levies which replace or are intended to be in lieu of such taxes and any penalties and interest related to such taxes or arising from tax examinations); *plus*
  - (b) Consolidated Interest Expense; *plus*
  - (c) all depreciation and amortization charges and expenses, including amortization or expense recorded for upfront payments related to any contract signing, signing bonus and incentive payments and deferred financing fees or costs; *plus*
  - (d) the amount of any interest expense or reduction of Consolidated Net Income consisting of Subsidiary income attributable to minority equity interests and non-controlling interests of third parties in any Restricted Subsidiary of such Person that is not a Wholly Owned Restricted Subsidiary of such Person (excluding cash distributions in respect thereof); *plus*
  - (e) the amount of board of directors, transaction and advisory fees (including termination fees) and related indemnities, charges and expenses paid by or accrued by the Parent Borrower, in each case, to the extent permitted by this Agreement; *plus*

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- (f) earn-out and contingent consideration obligations incurred in connection with any acquisition or other Investment and paid or accrued during the applicable period, including any mark to market adjustments; *plus*
- (g) all payments, charges, costs, expenses, accruals or reserves in connection with the rollover, acceleration or payout of equity interests held by any future, present or former director, officer, employee, manager, consultant or independent contractor of the Parent Borrower or any of its Restricted Subsidiaries and all losses, charges and expenses related to payments made to holders of options, cash-settled appreciation rights or other derivative equity interests in the common equity of such Person or any of its direct or indirect parents in connection with, or as a result of, any distribution being made to equityholders of such Person or any of its direct or indirect parents, which payments are being made to compensate such holders as though they were equityholders at the time of, and entitled to share in, such distribution; *plus*
- (h) all non-cash losses, charges and expenses, including any write-offs or write-downs; provided that if any such non cash loss, charge or expense represents an accrual or reserve for potential cash items in any future four-fiscal quarter period, (i) such Person may determine not to add back such non cash loss, charge or expense in the period for which Consolidated EBITDA is being calculated and (ii) to the extent such Person does decide to add back such non cash loss, charge or expense, the cash payment in respect thereof in such future four-fiscal quarter period will be subtracted from Consolidated EBITDA for such future four-fiscal quarter period; *plus*
- (i) all costs and expenses in connection with pre-opening and opening and closure and/or consolidation of facilities; *plus*
- (j) restructuring charges (including tax restructurings), accruals or reserves and business optimization expense, whether or not classified as restructuring charges or expenses under GAAP, including any restructuring costs and integration costs incurred in connection with the Transactions and any other acquisitions, start-up costs (including entry into new market/channels and new service offerings), costs related to the closure, relocation, reconfiguration and/or consolidation of facilities and costs to relocate employees, integration and transaction costs, retention charges, severance, contract termination costs, transaction, retention, recruiting, signing and similar bonuses and expenses, future lease commitments, systems establishment costs, systems, facilities or equipment conversion costs, excess pension charges and consulting fees, expenses attributable to the implementation of costs savings initiatives, costs associated with tax projects/audits, expenses relating to any decommissioning or reconfiguration of fixed assets for alternative uses and costs consisting of professional consulting or other fees relating to any of the foregoing; *plus*
- (k) Pro Forma Cost Savings; provided that the aggregate amount of Pro Forma Cost Savings pursuant to this clause (k), together with the aggregate amount of adjustments in the nature of cost savings, operating expense reductions, operating improvements and synergies made pursuant to the definitions of “Pro Forma Basis”, “Pro Forma Compliance” and “Pro Forma Effect”, shall not exceed in the aggregate 30% of Consolidated EBITDA for any Test Period (prior to giving effect to the addback of such items pursuant to this clause (k) and such definitions); *plus*

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- (l) addbacks of the type set forth in (i) any financial model or projections delivered to the Arrangers prior to the Closing Date and/or (ii) any quality of earnings report prepared by an accounting firm of national standing or otherwise reasonably acceptable to the Administrative Agent in connection with any Permitted Acquisition or any other Permitted Investment; *plus*
  - (m) the amount of loss or discount on sale of receivables and related assets to the Receivables Subsidiary in connection with a Receivables Financing; *plus*
  - (n) with respect to any joint venture of such Person or any Restricted Subsidiary thereof that is not a Restricted Subsidiary, an amount equal to (i) such Person's or such Restricted Subsidiary's proportionate share of the net income of such joint venture that is excluded from Consolidated Net Income as a result of clause (i) of the proviso in the definition of "Consolidated Net Income" and (ii) the proportion of those items described in clauses (a), (b) and (c) above relating to such joint venture corresponding to such Person's and the Restricted Subsidiaries' proportionate share of such joint venture's Consolidated Net Income (determined as if such joint venture were a Restricted Subsidiary) solely to the extent Consolidated Net Income was reduced thereby; *plus*
  - (o) charges consisting of income attributable to minority interests and noncontrolling interests of third parties in any non-Wholly Owned Restricted Subsidiary (excluding cash distributions in respect thereof); *plus*
  - (p) all non-operating costs and expenses in connection with the ESL Cost Sharing Agreement with DuPont and/or certain of its subsidiaries as described in the Form 10; provided that adjustments made pursuant to this clause (1)(p) shall not exceed in the aggregate \$10,000,000 for any Test Period;
- (2) *increased* (with respect to losses) to the extent deducted (and not otherwise added back) or excluded, or *decreased* (with respect to gains) to the extent added (and not otherwise deducted) or included, as applicable, in calculating such Consolidated Net Income (and in each case without duplication), by:
- (a) all pre-tax extraordinary, nonrecurring, infrequent, exceptional or unusual gains, losses, income, expenses and charges in each case as determined in good faith by such Person, and in any event including (i) all fees and all restructuring, severance, relocation, retention and completion bonuses or payments, consolidation, integration or other similar charges and expenses, contract termination costs, system establishment charges, conversion costs, start-up or closure or transition costs, (ii) expenses related to any reconstruction, decommissioning, recommissioning or reconfiguration of fixed assets for alternative uses, (iii) fees, expenses or charges relating to curtailments, settlements or modifications to pension and post-retirement employee benefit plans in connection with the Transactions or any acquisition or Investment, expenses associated with strategic initiatives, facilities shutdown and opening costs, (iv) any fees, expenses, charges or change in control payments related to the Transactions or any acquisition or Investment (including any transition-related expenses (including retention or

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transaction-related bonuses or payments) incurred before, on or after the Closing Date) and (v) to the extent deducted or excluded from Consolidated Net Income on or after the Closing Date, (x) costs, expenses or other charges (including pursuant to any indemnification obligations) in connection with the Separation Agreements and (y) costs, expenses or other charges (including any legal fees and expenses) associated with any proceedings or the payment of any legal settlement, fine, judgment or order, including all settlement payments paid to Governmental Authorities, *plus* or *minus*, as applicable;

- (b) (i) all Transaction Costs and other losses, charges and expenses relating to the Transactions, (ii) any transaction fees, costs and expenses (including any transaction or retention bonus or similar payment and non-recurring costs to acquire equipment to the extent not capitalized in accordance with GAAP) incurred in connection with any contemplated equity issuances, Investments, acquisitions, dispositions outside of the ordinary course of business, recapitalizations, mergers, amalgamations, option buyouts and the Incurrence, modification or repayment of Indebtedness permitted to be Incurred under this Agreement (including any Refinancing Indebtedness in respect thereof), non-competition agreement, issuance or repayment of debt, refinancing transaction or amendment or other modification of or waiver or consent relating to any debt instrument or any amendments, waivers or other modifications under the agreements relating to such Indebtedness or similar transactions (in each case, whether or not consummated) (including, for the avoidance of doubt, the effects of expensing all transaction-related expenses in accordance with FASB Accounting Standards Codification 805 and gains or losses associated with FASB Accounting Standards Codification 460), and (iii) without duplication of any of the foregoing, all non-operating or non-recurring professional fees, costs and expenses for such period, *plus* or *minus*, as applicable;
- (c) all pre-tax income, loss, expense or charge from abandoned, closed or discontinued operations and any net after-tax gain or loss on the disposal of abandoned, closed or discontinued operations (and all related expenses) other than in the ordinary course of business (as determined in good faith by such Person), *plus* or *minus*, as applicable;
- (d) all pre-tax gain, loss, expense or charge attributable to dispositions and asset sales, including the sale or other disposition of any Equity Interests of any Person, other than in the ordinary course of business (as determined in good faith by such Person), *plus* or *minus*, as applicable;
- (e) all pre-tax income, loss, expense or charge attributable to the early extinguishment, conversion or cancellation of Indebtedness, Swap Contracts or other derivative instruments (including deferred financing costs written off and premiums paid), *plus* or *minus*, as applicable;
- (f) all gains, losses, expenses or charges attributable to the movement in the mark-to-market valuation of Indebtedness, Swap Contracts or other derivative instruments, *plus* or *minus*, as applicable;
- (g) any currency translation or foreign currency transaction gains and losses related to changes in currency exchange rates (including remeasurements of Indebtedness and any net loss or gain resulting from (i) Swap Contracts for currency exchange risk and (ii) intercompany Indebtedness), *plus* or *minus*, as applicable;

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- (h) the cumulative effect of a change in accounting principles and changes as a result of the adoption or modification of accounting policies, *plus* or *minus*, as applicable;
  - (i) the effects of purchase accounting, fair value accounting or recapitalization accounting adjustments (including the effects of such adjustments pushed down to the referent Person and its Restricted Subsidiaries) resulting from the application of purchase accounting, fair value accounting or recapitalization accounting (including in the inventory, property and equipment, software, goodwill, intangible assets, in-process research and development, deferred revenue and debt line items), and the amortization, write-down or write-off of any amounts thereof, on a pre-tax basis, *plus* or *minus*, as applicable;
  - (j) all non-cash impairment charges and asset write-ups, write-downs and write-offs, in each case pursuant to GAAP, and the amortization of intangibles arising from the application of GAAP, *plus* or *minus*, as applicable;
  - (k) all non-cash expenses realized in connection with or resulting from equity or equity-linked compensation plans, employee benefit plans or agreements or post-employment benefit plans or agreements, or grants or sales of stock, stock appreciation or similar rights, stock options, restricted stock, preferred stock, stock appreciation or other similar rights, *plus* or *minus*, as applicable;
  - (l) any costs or expenses incurred in connection with the payment of dividend equivalent rights to holders of equity-based incentive awards pursuant to any equity plan, stock option plan or any other employee benefit plan or agreement or post-employment benefit plan or agreement, *plus* or *minus*, as applicable;
  - (m) accruals and reserves for liabilities or expenses that are established or adjusted as a result of the Transactions within twenty-four (24) months after the Closing Date, *plus* or *minus*, as applicable;
  - (n) all amortization and write-offs of deferred financing fees, debt issuance costs, commissions, fees and expenses, costs of surety bonds, charges owed with respect to letters of credit, bankers' acceptances or similar facilities, and expensing of any bridge, commitment or other financing fees (including in connection with a transaction undertaken but not completed), *plus* or *minus*, as applicable;
  - (o) all discounts, commissions, fees and other charges (including interest expense) associated with any Receivables Financing or Factoring Transaction, *plus* or *minus*, as applicable;
  - (p) expenses and lost profits with respect to liability or casualty events or business interruption to the extent covered by insurance and actually reimbursed, or, so long as such Person has made a determination that there exists reasonable evidence that such amount will in fact be reimbursed by the insurer, but only to the extent that such amount (i) has not been denied by the applicable carrier in writing and (ii) is in fact reimbursed within 365 days of the date on which such liability was discovered or such casualty event or business interruption occurred (with a deduction for any amounts so added back that are not reimbursed within such 365-day period); provided that any proceeds of such reimbursement when received will be excluded from the calculation of Consolidated EBITDA to the extent the expense or lost profit reimbursed was previously added back pursuant to this clause (p), *plus* or *minus*, as applicable;

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- (q) losses, charges and expenses that are covered by indemnification or other reimbursement provisions in connection with any asset disposition to the extent actually reimbursed, or, so long as such Person has made a determination that a reasonable basis exists for indemnification or reimbursement, but only to the extent that such amount is in fact indemnified or reimbursed within 365 days of such determination (with a deduction in the applicable future period for any amount so added back to the extent not so indemnified or reimbursed within such 365 days), *plus or minus*, as applicable;
  - (r) non-cash charges or income relating to increases or decreases of deferred tax asset valuation allowances, *plus or minus*, as applicable;
  - (s) cash dividends (in the case of Unrestricted Subsidiaries, from earned income) or returns of capital from Investments (such return of capital not reducing the ownership interest in the underlying Investment), in each case received during such period, to the extent not otherwise included in Consolidated Net Income for that period or any prior period subsequent to the Closing Date, *plus or minus*, as applicable;
  - (t) any (i) severance or relocation costs or expenses, (ii) one-time non-cash compensation charges, (iii) the costs and expenses related to employment of terminated employees, or (iv) costs or expenses realized in connection with or resulting from stock appreciation or similar rights, stock options or other rights of officers, directors and employees, in each case of such Person or any of its Restricted Subsidiaries, *plus or minus*, as applicable; and
  - (u) any non-cash interest expense and non-cash interest income, in each case to the extent there is no associated cash disbursement or receipt, as the case may be, before the Latest Maturity Date of any then outstanding Term Loan Tranche;
- (3) *decreased* (without duplication and to the extent increasing such Consolidated Net Income for such period) by (i) non-cash gains or income, excluding any non-cash gains that represent the reversal of any accrual of, or cash reserve for, anticipated cash charges that were deducted (and not added back) in the calculation of Consolidated EBITDA for any prior period ending after the Closing Date and (ii) the amount of any minority interest income consisting of a Subsidiary loss attributable to minority equity interest of third parties in any non-Wholly Owned Subsidiary (to the extent not deducted from Consolidated Net Income for such period);
- (4) *increased* (with respect to losses) or *decreased* (with respect to gains) by, without duplication, any net realized gains and losses relating to (i) amounts denominated in foreign currencies (including net realized gains and losses from exchange rate fluctuations on intercompany balances and balance sheet items, net of realized gains or losses from related Swap Contracts (entered into in the ordinary course of business or consistent with past practice)) or (ii) any other amounts denominated in or otherwise trued-up to provide similar accounting as if it were denominated in foreign currencies; and



- (5) *increased* (with respect to losses) or *decreased* (with respect to gains) by, without duplication, any gain or loss relating to Swap Contracts (excluding Swap Contracts entered into in the ordinary course of business or consistent with past practice);

provided that the Parent Borrower may, in its sole discretion, elect to not make any adjustment for any item pursuant to the foregoing clauses (1) through (5) above if any such item individually is less than an amount equal to the greater of (x) \$2,000,000 and (y) 0.15% of the EBITDA Grower Amount in any fiscal quarter.

“Consolidated First Lien Net Leverage Ratio” means, on any date of determination, with respect to the Borrower Parties on a consolidated basis, the ratio of (a) Consolidated Funded First Lien Indebtedness (less the amount of unrestricted cash and Cash Equivalents of the Borrower Parties as of such date) of the Borrower Parties on such date to (b) Consolidated EBITDA of the Borrower Parties for the Test Period, in each case calculated on a Pro Forma Basis.

“Consolidated Funded First Lien Indebtedness” means Consolidated Funded Indebtedness that is secured (x) by a Lien on the Collateral on an equivalent or higher priority basis (without regard to the control of remedies) with the Liens on the Collateral securing the Obligations or (y) by a Lien on any other asset of a Loan Party on a first-priority basis, including Capitalized Lease Obligations.

“Consolidated Funded Indebtedness” means all Indebtedness of the type described in clauses (a)(i), (a)(ii) (but excluding surety bonds, performance bonds or other similar instruments) and (a)(iv) (but solely in respect of the amount of outstanding Indebtedness of the type described in (a)(iv) that is in excess of \$5,000,000) of a Person and its Restricted Subsidiaries on a consolidated basis, in an amount that would be reflected on a balance sheet prepared as of such date on a consolidated basis in accordance with GAAP (provided that (x) the effects of any discounting of Indebtedness resulting from the application of purchase accounting in connection with the Transactions or any acquisition shall be excluded and (y) any Indebtedness that is issued at a discount to its initial principal amount shall be calculated based on the entire stated principal amount thereof, without giving effect to any discounts or upfront payments), excluding obligations in respect of letters of credit (including Letters of Credit), bank guarantees and guarantees on first demand, in each case, except to the extent of unreimbursed amounts thereunder. For the avoidance of doubt, it is understood that obligations (a) under Swap Contracts, Cash Management Agreements, and any Receivables Financing or Factoring Transaction, (b) in respect of Indebtedness owing to any Borrower or any Restricted Subsidiary and (c) owed by Unrestricted Subsidiaries, do not constitute Consolidated Funded Indebtedness.

“Consolidated Funded Senior Secured Indebtedness” means Consolidated Funded Indebtedness that is secured by a Lien on the Collateral or any other asset of a Loan Party, and including Capitalized Lease Obligations; provided that such Consolidated Funded Indebtedness is not expressly subordinated pursuant to a written agreement in right of payment to the Obligations.

“Consolidated Interest Expense” means, with respect to any Person for any period, the sum, without duplication, of:

- (a) the aggregate interest expense of such Person and its Restricted Subsidiaries for such period, calculated on a consolidated basis in accordance with GAAP, to the extent such expense was deducted (and not added back) in computing Consolidated Net Income (including pay in kind interest payments, amortization of original issue discount, the interest component of Capitalized Lease Obligations and net payments and receipts (if any) pursuant to interest rate Swap Contracts (other than in connection with the early termination thereof) but excluding any non-cash interest expense attributable to the movement in the mark-to-market valuation of Indebtedness, Swap Contracts or other derivative instruments, all amortization and write-offs of deferred financing fees, debt

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issuance costs, commissions, discounts, fees and expenses and expensing of any bridge, commitment or other financing fees, costs of surety bonds, charges owed with respect to letters of credit, bankers' acceptances or similar facilities, all discounts, commissions, fees and other charges associated with any Receivables Financing or Factoring Transaction, and any expense resulting from the discounting of Indebtedness in connection with the application of recapitalization or purchase accounting); *plus*

- (b) consolidated capitalized interest of the referent Person and its Restricted Subsidiaries for such period, whether paid or accrued; *less*
- (c) interest income of the referent Person and its Restricted Subsidiaries for such period;

provided that in the case of any Person that became a Restricted Subsidiary of such Person after the commencement of such four-quarter period, the interest expense of such Person paid in cash prior to the date on which it became a Restricted Subsidiary of such Person will be disregarded. For purposes of this definition, interest on Capitalized Lease Obligations will be deemed to accrue at the interest rate reasonably determined by such Person to be the rate of interest implicit in such Capitalized Lease Obligations in accordance with GAAP.

“Consolidated Net Income” means, with respect to any Person for any period, the aggregate of the net income (or loss) of such Person and its Restricted Subsidiaries for such period, calculated on a consolidated basis in accordance with GAAP; provided that:

- (a) (i) the net income (or loss) with respect to any Person that is not the referent Person or a Restricted Subsidiary of the referent Person or that is accounted for by the equity method of accounting, will be included only to the extent of the amount of dividends or distributions or other payments that are paid in or converted into cash or that, as reasonably determined by a responsible financial or accounting officer of the referent Person or a Restricted Subsidiary of the referent Person, could have been paid in or converted into cash (subject, in the case of a dividend or other distribution or return on investment to a Restricted Subsidiary, to the limitations contained in clause (b) below) with respect to such equity ownership to the referent Person or a Restricted Subsidiary thereof in respect of such period; and (ii) without duplication, the net income (or loss) for such period will include any ordinary course dividends or distributions or other payments paid in cash (or converted into cash) with respect to such equity ownership received from any such Person during such period in excess of the amounts included in subclause (i) above;
- (b) solely for the purpose of determining the amount available for Restricted Payments under the Available Amount, and without duplication of components of the Available Amount with respect to cash dividends or returns on Investments, the net income (or loss) for such period of any Restricted Subsidiary (other than a Borrower or a Guarantor) will be excluded to the extent that the declaration or payment of dividends or similar distributions by that Restricted Subsidiary is not at the date of determination permitted without any prior governmental approval (which has not been obtained) or, directly or indirectly, by the operation of its charter or any agreement, instrument, judgment, decree, order, statute, rule or governmental regulation applicable to that Restricted Subsidiary or its stockholders, unless such restriction with respect to the payment of dividends or similar distributions has been legally waived; provided that Consolidated Net Income of such Person will be increased by the amount of dividends or other distributions or other payments actually paid in cash (or to the extent converted into cash) to such Person or any of its Restricted Subsidiaries in respect of such period, to the extent not already included therein (subject, in the case of a dividend to another Restricted Subsidiary (other than a Borrower or a Guarantor), to the limitation contained in this clause (b)); and

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- (c) the net income (or loss) of any Person accrued prior to the date it becomes a Restricted Subsidiary of the Parent Borrower or is merged into or consolidated with Parent Borrower or any of its Subsidiaries or such Person's assets are acquired by the Parent Borrower or any of its Restricted Subsidiaries shall be excluded (except to the extent required for any calculation of Consolidated EBITDA on a Pro Forma Basis in accordance with Section 1.10).

For the purpose of Section 7.05 only, there shall be excluded from Consolidated Net Income any income arising from the sale or other disposition of Restricted Investments, from repurchases or redemptions of Restricted Investments, from repayments of loans or advances which constituted Restricted Investments or from any dividends, repayments of loans or advances or other transfers of assets from Unrestricted Subsidiaries, in each case to the extent such amounts increase the amount of Restricted Payments permitted under such covenant pursuant to clauses (v), (vi) or (vii) of the Available Amount.

"Consolidated Secured Net Leverage Ratio" means, as of any date of determination, the ratio of (a) Consolidated Funded Senior Secured Indebtedness (less the amount of unrestricted cash and Cash Equivalents of the Borrower Parties as of such date) of the Borrower Parties on such date to (b) Consolidated EBITDA of the Borrower Parties for the Test Period, in each case calculated on a Pro Forma Basis.

"Consolidated Total Assets" means the total consolidated assets of the Parent Borrower and its Restricted Subsidiaries, as shown on the most recent consolidated balance sheet of the Parent Borrower and its Restricted Subsidiaries, determined in accordance with GAAP.

"Consolidated Total Net Leverage Ratio" means, as of any date of determination, the ratio of (a) Consolidated Funded Indebtedness (less the amount of unrestricted cash and Cash Equivalents of the Borrower Parties as of such date) of the Borrower Parties on such date to (b) Consolidated EBITDA of the Borrower Parties for the Test Period, in each case calculated on a Pro Forma Basis.

"Contingent Obligations" means, with respect to any Person, any obligation of such Person guaranteeing any leases, dividends or other obligations that do not constitute Indebtedness ("primary obligations") of any other Person (the "primary obligor") in any manner, whether directly or indirectly, including any obligation of such Person, whether or not contingent:

- (1) to purchase any such primary obligation or any property constituting direct or indirect security therefor,
- (2) to advance or supply funds:
  - (a) for the purchase or payment of any such primary obligation; or
  - (b) to maintain working capital or equity capital of the primary obligor or otherwise to maintain the net worth or solvency of the primary obligor; or
- (3) to purchase property, securities or services primarily for the purpose of assuring the owner of any such primary obligation of the ability of the primary obligor to make payment of such primary obligation against loss in respect thereof.

For the avoidance of doubt and notwithstanding the foregoing, no Permitted Bond Hedge Transaction or Permitted Warrant Transaction shall constitute a "Contingent Obligation".

“Contractual Obligation” means, as to any Person, any provision of any security issued by such Person or of any agreement, loan agreement, indenture, mortgage, deed of trust, lease, instrument or other undertaking to which such Person is a party or by which it or any of its property is bound.

“Contribution Indebtedness” means unsecured Indebtedness of the Parent Borrower or any Restricted Subsidiary in an aggregate principal amount not greater than the aggregate amount of cash contributions (other than Excluded Contributions) made to the capital of the Parent Borrower or any Restricted Subsidiary (other than, in the case of such Restricted Subsidiary, contributions by the Parent Borrower or any other Restricted Subsidiary to its capital) after the Closing Date.

“Controlled Foreign Subsidiary” means any Subsidiary of the Parent Borrower that is a “controlled foreign corporation” within the meaning of Section 957 of the Code.

“Convertible Indebtedness” means Indebtedness of the Parent Borrower permitted to be incurred under the terms of this Agreement that is either (a) convertible into common stock of the Parent Borrower (and cash in lieu of fractional shares) and/or cash (in an amount determined by reference to the price of such common stock) or (b) sold as units with call options, warrants or rights to purchase (or substantially equivalent derivative transactions) that are exercisable for common stock of the Parent Borrower and/or cash (in an amount determined by reference to the price of such common stock).

“Corresponding Liabilities” shall mean the Obligations of a Loan Party or a Grantor, excluding its Parallel Liability.

“Corresponding Tenor” with respect to any Available Tenor means, as applicable, either a tenor (including overnight) or an interest payment period having approximately the same length (disregarding business day adjustment) as such Available Tenor.

“Covered Entity” means any of the following:

- (1) a “covered entity” as that term is defined in, and interpreted in accordance with, 12 C.F.R. § 252.82(b);
- (2) a “covered bank” as that term is defined in, and interpreted in accordance with, 12 C.F.R. § 47.3(b); or
- (3) a “covered FSI” as that term is defined in, and interpreted in accordance with, 12 C.F.R. § 382.2(b).

“Covered Jurisdictions” means United States (including its States and the District of Columbia), Japan, Korea and any additional jurisdictions designated in writing by the Parent Borrower to the Administrative Agent with the prior written consent of the Administrative Agent (not to be unreasonably withheld, conditioned or delayed).

“Covered Party” has the meaning specified in Section 9.16.

“Credit Agreement” means (a) this Agreement and (b) whether or not this Agreement remains outstanding, if designated by the Borrowers to be included in the definition of “Credit Agreement,” one or more (i) debt facilities, indentures or commercial paper facilities providing for revolving credit loans, term loans, notes, debentures, receivables financing (including through the sale of receivables to lenders or to special purpose entities formed to borrow from lenders against such receivables) or letters of credit, (ii) debt securities, notes, guarantees, collateral documents, indentures or other forms of debt financing (including convertible or exchangeable debt instruments or bank guarantees or bankers’ acceptances), or

(iii) instruments or agreements evidencing any other Indebtedness, in each case, with the same or different borrower(s) or issuer(s) and, in each case, as amended, supplemented, modified, extended, restructured, renewed, refinanced, restated, increased (provided that such increase in borrowings is permitted under this Agreement), replaced or refunded in whole or in part from time to time and whether by the same or any other agent, lender or investor or group of lenders or investors.

“Credit Extension” means each of the following: (a) a Borrowing and (b) an L/C Credit Extension.

“Cumulative Retained Excess Cash Flow Amount” shall mean, at any date, an amount (which shall not be less than zero in the aggregate) determined on a cumulative basis equal to the aggregate cumulative sum of the Retained Excess Cash Flow for all Excess Cash Flow Periods ending after the Closing Date and prior to such date (which, for any Excess Cash Flow Period, shall not be less than zero), but excluding the amount of Excess Cash Flow not required to be applied to repay Term Loans pursuant to Section 2.05(b)(viii), (ix) or (x).

“Daily Simple SOFR” means, for any day (a “SOFR Rate Day”), a rate per annum equal to SOFR for the day (such day “SOFR Determination Date”) that is five (5) U.S. Government Securities Business Days prior to (a) if such SOFR Rate Day is an U.S. Government Securities Business Day, such SOFR Rate Day or (b) if such SOFR Rate Day is not an U.S. Government Securities Business Day, the U.S. Government Securities Business Day immediately preceding such SOFR Rate Day, in each case, as such SOFR is published by the SOFR Administrator on the SOFR Administrator’s Website. Any change in Daily Simple SOFR due to a change in SOFR shall be effective from and including the effective date of such change in SOFR without notice to the Borrower Representative; provided that in no event shall Daily Simple SOFR be less than the Floor.

“Date of Full Satisfaction” means the date upon which the Aggregate Commitments have been terminated in full, the Obligations have been paid in full (other than (a) contingent indemnification obligations as to which no claim has been asserted and (b) obligations and liabilities under Secured Cash Management Agreements and Secured Hedge Agreements) and all Letters of Credit have expired or been terminated (other than Letters of Credit which have been Cash Collateralized or as to which arrangements satisfactory to the L/C Issuer that issued such Letters of Credit shall have been made).

“Debtor Relief Laws” means the Bankruptcy Code of the United States, and all other liquidation, conservatorship, bankruptcy, assignment for the benefit of creditors, moratorium, rearrangement, receivership, insolvency, judicial management, reorganization, rehabilitation, work-out or similar debtor relief Laws of the United States or other applicable jurisdictions from time to time in effect and affecting the rights of creditors generally.

“Declined Amounts” has the meaning specified in Section 2.05(c).

“Declining Lender” has the meaning specified in Section 2.05(c).

“Default” means any event or condition that constitutes an Event of Default or that, with the giving of any notice, the passage of time, or both, would be an Event of Default.

“Default Rate” means an interest rate equal to (after as well as before judgment), (a) with respect to any overdue principal for any Loan, the applicable interest rate for such Loan *plus* 2.00% per annum (provided that with respect to Term Benchmark Loans, the determination of the applicable interest rate is subject to Section 2.02(c) to the extent that Term Benchmark Loans may not be converted to, or continued as, Term Benchmark Loans pursuant thereto), and (b) with respect to any other overdue amount, including overdue interest, the interest rate applicable to Base Rate Loans of the same Class as the Loan under which such amount is overdue *plus* 2.00% per annum, in each case, to the fullest extent permitted by applicable Laws.

“Default Right” has the meaning assigned to that term in, and shall be interpreted in accordance with, 12 C.F.R. §§ 252.81, 47.2 or 382.1, as applicable.

“Defaulting Lender” means, subject to Section 2.17(b), any Lender that (a) has failed to perform any of its funding obligations hereunder, including in respect of its Loans or participations in respect of Letters of Credit within two (2) Business Days of the date required to be funded by it hereunder unless such Lender notifies the Administrative Agent in writing that such failure is the result of such Lender’s good faith determination that one or more conditions precedent to funding (each of which conditions precedent, together with any applicable default, shall be specifically identified in such writing) has not been satisfied, (b) has notified the Parent Borrower or the Administrative Agent that it does not intend to comply with its funding obligations or has made a public statement to that effect with respect to its funding obligations hereunder or, solely with respect to a Revolving Credit Lender, under other agreements generally in which it commits to extend credit (unless such notice or public statement relates to such Lender’s good faith determination that a condition precedent to funding (which condition precedent, together with any applicable default, shall be specifically identified in such writing or public statement) cannot be satisfied), (c) has failed, within three (3) Business Days after reasonable request by the Administrative Agent or the Parent Borrower, to confirm in a manner satisfactory to the Administrative Agent and the Parent Borrower that it will comply with its funding obligations (provided that the Administrative Agent shall request such confirmation upon reasonable request from any L/C Issuer; provided, further, that such Lender shall cease to be a Defaulting Lender pursuant to this clause (c) upon receipt of such confirmation by the Administrative Agent and the Parent Borrower) (it being understood that such Lender may otherwise remain a Defaulting Lender pursuant to one or more other clauses of this definition) or (d) has, or has a direct or indirect parent company that has, other than via an Undisclosed Administration, (i) become the subject of a proceeding under any Debtor Relief Law, (ii) had a receiver, conservator, trustee, administrator, assignee for the benefit of creditors or similar Person charged with reorganization or liquidation of its business or assets or a custodian appointed for it, including the Federal Deposit Insurance Corporation or any other state or federal regulatory authority acting in such a capacity, (iii) taken any action in furtherance of, or indicated its consent to, approval of or acquiescence in any such proceeding or appointment or (iv) become subject to a Bail-In Action; provided that no Lender shall be a Defaulting Lender solely by virtue of (x) the ownership or acquisition by a Governmental Authority of any Equity Interest in that Lender or any direct or indirect parent company thereof so long as such ownership interest does not result in or provide such Lender with immunity from the jurisdiction of courts within the United States or from the enforcement of judgments or writs of attachment on its assets or permit such Lender (or such Governmental Authority) to reject, repudiate, disavow or disaffirm any contracts or agreements made with such Lender, or (y) the occurrence of any of the events described in clause (d)(i), (d)(ii) or (d)(iii) of this definition which in each case has been dismissed or terminated prior to the date of this Agreement. Any determination by the Administrative Agent (or the Required Lenders to the extent that the Administrative Agent is the Defaulting Lender) that a Lender is a Defaulting Lender under any one or more of clauses (a) through (d) above shall be conclusive and binding absent manifest error, and such Lender shall be deemed to be a Defaulting Lender (subject to Section 2.17(b)) upon delivery of written notice of such determination to the Administrative Agent, the Parent Borrower, each L/C Issuer and each Lender, as applicable.

“Designated Loans” has the meaning specified in Section 10.28(a).

“Designated Non-Cash Consideration” means the Fair Market Value of non-cash consideration received by the Parent Borrower or any of the Restricted Subsidiaries in connection with an Asset Sale that so is designated as “Designated Non-Cash Consideration” pursuant to a certificate of a Responsible Officer of the Parent Borrower, less the amount of cash or Cash Equivalents received in connection with a subsequent sale of or collection on or conversion of such Designated Non-Cash Consideration.

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“Designating Lender” has the meaning specified in Section 10.28(a).

“Designation Date” has the meaning specified in Section 2.22(f).

“Disclosed Matters” means the actions, suits and proceedings and the environmental matters disclosed in (a) the Form 10 and (b) Schedule 1.01(a).

“Discount Range” has the meaning specified in the definition of “Dutch Auction.”

“Disposition” or “Dispose” has the meaning specified in the definition of “Asset Sale”.

“Disqualified Institution” means:

- (a) each person identified as a “Disqualified Institution” on a list made available by the Borrowers to the Arrangers prior to the Closing Date,
- (b) any Company Competitor identified on a list made available to the Administrative Agent by the Borrowers from time to time, and
- (c) as to any entity referenced in each of clauses (a) and (b) above (the “Primary Disqualified Institution”), any of such Primary Disqualified Institution’s Affiliates identified in writing to the Administrative Agent from time to time or otherwise readily identifiable as such by name, but excluding any Affiliate (other than any Affiliate that has been expressly named as a Disqualified Institution in accordance with clause (b) above) that is primarily engaged in, or that advises funds, or other investment vehicles that are engaged in, making, purchasing, holding or otherwise investing in commercial loans, bonds and similar extensions of credit or securities in the ordinary course and with respect to which the Primary Disqualified Institution does not, directly or indirectly, possess the power to direct or cause the direction of such entity;

provided that (1) any additional designation permitted by the foregoing shall not apply retroactively to any prior or pending assignment or participation to any Lender or Participant that was permitted under the terms of this Agreement at the time of such assignment or participation, (2) “Disqualified Institutions” shall exclude any Person that a Borrower has designated as no longer being a “Disqualified Institution” by written notice delivered to the Administrative Agent from time to time, (3) for the avoidance of doubt, any entity that is a Disqualified Institution under clauses (a) and (b) above may not become an Eligible Assignee due to the fact that it is an Affiliate of an existing Lender, (4) the list of Disqualified Institutions shall only be required to be delivered to any existing Lender or Participant upon written request by such Lender or Participant to the Administrative Agent if such Lender or Participant is proposing to make an assignment or sell a participation interest (and such Lender or Participant may disclose to any prospective Participant or prospective Lender the list of Disqualified Institutions on a confidential basis in connection with a bona fide assignment or subparticipation) and (5) in no event shall a Bona Fide Debt Fund constitute a Company Competitor or an Affiliate of a Company Competitor for purposes of clauses (b) and (c) above. The list of Disqualified Institutions and any updates thereto shall be delivered to the Administrative Agent at JPMDQ\_Contact@jpmorgan.com (or to such other address as the Administrative Agent may designate to the Borrower Representative from time to time); provided that deletions or other modifications to the list of Disqualified Institutions shall become effective on the day that is 3 Business Days after the delivery thereof to the Administrative Agent.

“Disqualified Stock” means, with respect to any Person, any Equity Interests of such Person that, by its terms (or by the terms of any security into which it is convertible or for which it is puttable, redeemable or exchangeable), in each case, at the option of the holder thereof or upon the happening of any event:

- (1) matures or is mandatorily redeemable, pursuant to a sinking fund obligation or otherwise (other than (x) as a result of a change of control or asset sale; provided that any purchase requirement triggered thereby may not become operative until compliance with, in the case of an asset sale, the provisions of Section 7.04 or, in the case of a change of control, the repayment in full of the outstanding Obligations, (y) solely for Equity Interests in such Person that do not constitute Disqualified Stock and cash in lieu of fractional shares of such Equity Interests and (z) any maturity resulting from the optional redemption by the issuer thereof),
- (2) is convertible or exchangeable (either mandatorily or at the sole option of the holder thereof) for Indebtedness or Disqualified Stock, or
- (3) is redeemable at the option of the holder thereof, in whole or in part,

in each case prior to the date that is 91 days after the Latest Maturity Date of the Term Loans at the time of issuance of the respective Disqualified Stock; provided that only the portion of Equity Interests that so matures or is mandatorily redeemable, is so convertible or exchangeable or is so redeemable at the option of the holder thereof prior to such date shall be deemed to be Disqualified Stock; provided, further, that if such Equity Interests are issued to any employee or to any plan for the benefit of employees of the Parent Borrower or its Subsidiaries or by any such plan to such employees, such Equity Interests shall not constitute Disqualified Stock solely because it may be required to be repurchased by the Parent Borrower or its Subsidiaries in order to satisfy applicable statutory or regulatory obligations or as a result of such employee’s termination, death or disability; provided, further, that any class of Equity Interests of such Person that by its terms authorizes such Person to satisfy its obligations thereunder by delivery of Equity Interests that are not Disqualified Stock shall not be deemed to be Disqualified Stock.

“Distressed Agent-Related Person” has the meaning specified in the definition of “Agent-Related Distress Event”.

“Distribution” means the distribution on a pro rata basis of all outstanding shares of the Parent Borrower’s common stock to the holders of common stock of DuPont to effect the Spin-off.

“Divided LLC” means any limited liability company which has been formed upon the consummation of an LLC Division.

“Dollar” and “\$” mean lawful money of the United States.

“DuPont” means DuPont de Nemours, Inc., a Delaware corporation.

“Dutch Auction” means an auction (an “Auction”) conducted by the Parent Borrower or one of its Subsidiaries in order to purchase any Term Loans under a Tranche (the “Purchase”) in accordance with the following procedures:

- (a) Notice Procedures. In connection with any Auction, the Borrowers shall provide notification to the Administrative Agent (for distribution to the Appropriate Lenders) of the Term Loans under such Tranche that will be the subject of the Auction (an “Auction Notice”). Each Auction Notice shall be in a form reasonably acceptable to the



Administrative Agent and shall specify (i) the total cash value of the bid, in a minimum amount of \$10,000,000 with minimum increments of \$1,000,000 in excess thereof (the “Auction Amount”) and (ii) the discounts to par, which shall be expressed as a range of percentages of the par principal amount of the Term Loans under such Tranche at issue (the “Discount Range”), representing the range of purchase prices that could be paid in the Auction.

- (b) Reply Procedures. In connection with any Auction, each applicable Lender may, in its sole discretion, participate in such Auction by providing the Administrative Agent with a notice of participation (the “Return Bid”) which shall be in a form reasonably acceptable to the Administrative Agent and shall specify (i) a discount to par that must be expressed as a price (the “Reply Discount”), which must be within the Discount Range, and (ii) a principal amount of the applicable Loans such Lender is willing to sell, which must be in increments of \$1,000,000 or in an amount equal to such Lender’s entire remaining amount of the applicable Loans (the “Reply Amount”). Lenders may only submit one Return Bid per Auction. In addition to the Return Bid, each Lender wishing to participate in such Auction must execute and deliver, to be held in escrow by the Administrative Agent, an assignment and acceptance agreement in a form reasonably acceptable to the Administrative Agent.
- (c) Acceptance Procedures. Based on the Reply Discounts and Reply Amounts received by the Administrative Agent, the Administrative Agent, in consultation with the Borrowers, will determine the applicable discount (the “Applicable Discount”) for the Auction, which shall be the lowest Reply Discount for which the Parent Borrower or its Subsidiary, as applicable, can complete the Auction at the Auction Amount; provided that, in the event that the Reply Amounts are insufficient to allow the Parent Borrower or its Subsidiary, as applicable, to complete a purchase of the entire Auction Amount (any such Auction, a “Failed Auction”), the Parent Borrower or such Subsidiary shall either, at its election, (i) withdraw the Auction or (ii) complete the Auction at an Applicable Discount equal to the highest Reply Discount. The Parent Borrower or its Subsidiary, as applicable, shall purchase the applicable Loans (or the respective portions thereof) from each applicable Lender with a Reply Discount that is equal to or greater than the Applicable Discount (“Qualifying Bids”) at the Applicable Discount; provided that if the aggregate proceeds required to purchase all applicable Loans subject to Qualifying Bids would exceed the Auction Amount for such Auction, the Parent Borrower or its Subsidiary, as applicable, shall purchase such Loans at the Applicable Discount ratably based on the principal amounts of such Qualifying Bids (subject to adjustment for rounding as specified by the Administrative Agent). Each participating Lender will receive notice of a Qualifying Bid as soon as reasonably practicable but in no case later than five Business Days from the date the Return Bid was due.
- (d) Additional Procedures. After being initiated by an Auction Notice, the Parent Borrower or any of its Subsidiaries, as applicable, may withdraw an Auction in their sole and absolute discretion at any time. Furthermore, in connection with any Auction, upon submission by a Lender of a Qualifying Bid, such Lender will be obligated to sell the entirety or its allocable portion of the Reply Amount, as the case may be, at the Applicable Discount. The Purchase shall be consummated pursuant to and in accordance with Section 10.07 and, to the extent not otherwise provided herein, shall otherwise be consummated pursuant to procedures (including as to timing, rounding and minimum amounts, Interest Periods, and other notices by the Parent Borrower or such Subsidiary, as applicable) reasonably acceptable to the Administrative Agent and the Parent Borrower.

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“EBITDA Grower Amount” means Consolidated EBITDA for the most recently ended Test Period.

“ECF De Minimis Amount” has the meaning specified in Section 2.05(b)(i).

“ECF Percentage” has the meaning specified in Section 2.05(b)(i).

“ECF Prepayment Amount” has the meaning specified in Section 2.05(b)(i).

“EEA Financial Institution” means (a) any credit institution or investment firm established in any EEA Member Country that is subject to the supervision of an EEA Resolution Authority, (b) any entity established in an EEA Member Country that is a parent of an institution described in clause (a) of this definition, or (c) any financial institution established in an EEA Member Country that is a subsidiary of an institution described in clauses (a) or (b) of this definition and is subject to consolidated supervision with its parent.

“EEA Member Country” means any member state of the European Union, Iceland, Liechtenstein and Norway.

“EEA Resolution Authority” means any public administrative authority or any person entrusted with public administrative authority of any EEA Member Country (including any delegatee) having responsibility for the resolution of any EEA Financial Institution.

“Eligible Assignee” means any Person that meets the requirements to be an assignee under Section 10.07(b) (subject to receipt of such consents, if any, as may be required for the assignment of the applicable Loan and/or Commitments to such Person under Section 10.07). For the avoidance of doubt, in no event shall any Blocked Person be an Eligible Assignee.

“Employee Matters Agreement” has the meaning specified in the definition of “Separation Agreements”.

“Enforcement Event” has the meaning specified in Section 8.02.

“Environmental Laws” means any and all applicable federal, state, local and foreign statutes, laws (including common law), regulations, ordinances, rules, judgments, orders, decrees, permits, concessions, grants, franchises, licenses or legally enforceable governmental restrictions relating to pollution, the protection of the environment, human health (to the extent relating to exposure to Hazardous Materials) or safety, including those related to Hazardous Materials, air emissions and discharges to public pollution control systems.

“Environmental Liability” means any liability, contingent or otherwise (including any liability for damages, costs of environmental remediation, monitoring or oversight by a Governmental Authority, fines, penalties or indemnities) resulting from or based upon (a) any actual or alleged violation of any Environmental Law, (b) the generation, use, handling, transportation, storage, treatment or disposal of any Hazardous Materials, (c) human exposure to any Hazardous Materials, (d) the release or threatened release of any Hazardous Materials into the environment or (e) any contract, agreement or other binding consensual arrangement pursuant to which liability is assumed or imposed with respect to any of the foregoing.

“Environmental Permit” means any permit, approval, identification number, license or other authorization issued by a Governmental Authority and required under any Environmental Law.

“Equity Interests” means Capital Stock and all warrants, options or other rights to acquire Capital Stock (but excluding any Capital Stock that arises only by reason of the happening of a contingency that is outside of the control of the holder of such Capital Stock or any debt security that is convertible into, or exchangeable for, Capital Stock (including, for the avoidance of doubt, any Convertible Indebtedness of the Parent Borrower unless and until actually converted or exchanged into such Capital Stock, Permitted Bond Hedge Transactions and Permitted Warrant Transactions entered into as a part of, or in connection with, an issuance of such Convertible Indebtedness)).

“ERISA” means the Employee Retirement Income Security Act of 1974, and the rules and regulations thereunder, each as amended or modified from time to time.

“ERISA Affiliate” means any Person who together with any Loan Party or any Grantor is treated as a single employer within the meaning of Section 414(b) or (c) of the Code (and Sections 414(m) and (o) of the Code for purposes of provisions relating to Section 412 of the Code) or Section 4001 of ERISA.

“ERISA Event” means (a) a Reportable Event with respect to a Plan; (b) the withdrawal of any Loan Party or any Grantor or any ERISA Affiliate from a Plan subject to Section 4063 of ERISA during a plan year in which such entity was a “substantial employer” (as defined in Section 4001(a)(2) of ERISA) or a cessation of operations that is treated as such a withdrawal under Section 4062(e) of ERISA; (c) a complete or partial withdrawal by any Loan Party or any Grantor or any ERISA Affiliate from a Multiemployer Plan or written notification that a Multiemployer Plan is insolvent (within the meaning of Section 4245 of ERISA); (d) the filing of a written notice of intent to terminate a Plan or the treatment of a Plan amendment as a termination under Section 4041 or 4041A of ERISA, respectively; (e) the institution by the PBGC of proceedings to terminate a Plan or Multiemployer Plan; (f) an event or condition which constitutes grounds under Section 4042 of ERISA for the termination of, or the appointment of a trustee to administer, any Plan or Multiemployer Plan; (g) the determination that any Plan is considered an at-risk plan within the meaning of Section 430 of the Code or Section 303 of ERISA; (h) the determination that any Multiemployer Plan is considered a plan in “endangered”, “critical”, or “critical and declining” status within the meaning of Section 432 of the Code or Section 305 of ERISA; (i) the imposition of any liability under Title IV of ERISA, other than for PBGC premiums due but not delinquent under Section 4007 of ERISA, upon any Loan Party or any Grantor or any ERISA Affiliate; (j) the conditions for the imposition of a Lien under Section 430(k) of the Code or Section 303(k) of ERISA shall have been met with respect to any Plan; or (k) any Non-U.S. Benefit Event.

“Erroneous Payment” has the meaning specified in Section 9.03(e).

“Erroneous Payment Notice” has the meaning specified in Section 9.03(e).

“Escrow Account” means a deposit or securities account at a financial institution into which any Escrow Funds are deposited.

“Escrow Debt” means any Indebtedness of an Escrow Subsidiary (which may not be guaranteed or receive credit support from any Person other than an Escrow Subsidiary); provided that the net proceeds of such Indebtedness are deposited into an Escrow Account upon the issuance thereof.

“Escrow Funds” means the sum of (a) the net proceeds of any Escrow Debt, *plus* (b) the related Additional Escrow Amount, *plus* (c) so long as they are retained in an Escrow Account, any income, proceeds or products of the foregoing.

“Escrow Release Effective Time” has the meaning specified in the definition of “Escrow Subsidiary”.

“Escrow Subsidiary” means any Subsidiary of the Parent Borrower that (a) shall have been identified to the Administrative Agent promptly following its formation (and in any event prior to its incurrence of any Indebtedness) and (b) at no time shall contain any assets or liabilities other than any applicable Escrow Debt, Escrow Funds or Escrow Accounts and such Subsidiary’s rights and obligations under any documents related to its Escrow Debt. Until such time as the proceeds of such Escrow Debt have been released from escrow in accordance with the applicable escrow arrangements (the “Escrow Release Effective Time”), each relevant Escrow Subsidiary shall be deemed not to be a Subsidiary for any purpose of this Agreement and the other Loan Documents; provided that as of and after the Escrow Release Effective Time, each relevant Escrow Subsidiary shall cease to be an Escrow Subsidiary and shall be a Subsidiary for all purposes of this Agreement and the other Loan Documents and any such Escrow Debt shall be required to be permitted pursuant to Section 7.01 and any Liens securing such Escrow Debt shall be required to be permitted pursuant to Section 7.02.

“EU Bail-In Legislation Schedule” means the document described as such and published by the Loan Market Association (or any successor person), as in effect from time to time.

“EU Treaty” means the Treaty on European Union.

“Euro” and “€” means the single currency of the Participating Member States introduced in accordance with the provisions of Article 109(i)4 of the EU Treaty.

“Event of Default” has the meaning specified in Section 8.01.

“Excess Cash Flow” means, with respect to any Excess Cash Flow Period, an amount, not less than zero, equal to:

- (a) The sum, without duplication, of
  - (i) Consolidated Net Income of the Borrower Parties for such Excess Cash Flow Period, *plus*
  - (ii) ***non-cash charges***: all non-cash charges, losses and expenses (including depreciation and amortization) of the Borrower Parties that were deducted in calculating such Consolidated Net Income, but excluding any non-cash charges, losses and expenses representing an accrual or reserve for potential cash items in any future period and excluding amortization of a prepaid cash item that was paid in a prior period; *plus*
  - (iii) ***decreases in working capital***: decreases in Working Capital for such period (other than any such decreases arising from acquisitions or Dispositions by the Borrower Parties completed during such period, the application of purchase accounting or any third-party indemnification payments received by any Borrower Party during such period); *plus*
  - (iv) ***dispositions***: an amount equal to (A) the aggregate net non-cash loss on Dispositions by the Borrower Parties during such period (other than Dispositions in the ordinary course of business) to the extent deducted in arriving at such Consolidated Net Income *less* (B) to the extent otherwise included in Consolidated Net Income, the Net Cash Proceeds of any such Dispositions received during such period; *plus*
  - (v) ***minority Equity Interests***: the aggregate amount of cash dividends and other cash distributions received during such period by the Parent Borrower or any Restricted Subsidiary in respect of minority Equity Interests in any Person, *minus*

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- (b) the sum, without duplication between the categories below and without duplication of any amount satisfying any of the criteria below that the Parent Borrower elects to reduce the mandatory prepayments required pursuant to Section 2.05(b)(i)(B) (in each case, with respect to the Borrower Parties on a consolidated basis), of:
- (i) ***non-cash credits***: all non-cash credits, income or gains included in calculating such Consolidated Net Income, but excluding any non-cash credit, income or gain to the extent representing the reversal of an accrual or reserve described in paragraph (a)(ii) above; *plus*
  - (ii) ***increases in working capital***: an amount equal to the sum of (A) the increase in the Working Capital of the Borrower Parties during such period (other than any such increase arising from acquisitions or Dispositions by the Borrower Parties completed during such period, the application of purchase accounting or any third-party indemnification payments paid by any Borrower Party during such period), if any, *plus* (B) the increase in long-term accounts receivable of the Borrower Parties, if any; *plus*
  - (iii) ***payments on indebtedness***: repayments, prepayments, repurchases, redemptions and other cash payments made by the Borrower Parties with respect to the principal of any Indebtedness (including principal representing capitalized interest) or the principal component of any Capitalized Lease Obligations of the Borrower Parties during such period (excluding voluntary prepayments of Term Loans), including all premium, make-whole or penalty payments paid in cash (to the extent such payments are not expensed during such period or are not deducted in calculating Consolidated Net Income) and all repayments with respect to revolving Indebtedness to the extent accompanied by a corresponding reduction in commitments; *plus*
  - (iv) ***restricted payments***: cash payments made by the Borrower Parties during such period in respect of Restricted Payments (excluding Restricted Payments made pursuant to clause (i)(B) of the Available Amount and pursuant to Sections 7.05(b)(ii), (iii), (xvii), (xxi) and (xxiii) (other than such Restricted Payments made to pay interest expense for any Permitted Bond Hedge Transaction); provided that cash payments in respect of Section 7.05(b)(xxi) and (xxiii) will be included under this clause (iv) to the extent the applicable cash payments utilized for any Restricted Payment thereunder resulted in an increase to Consolidated Net Income during such Excess Cash Flow Period (and only to the extent of such increase)); *plus*
  - (v) ***taxes***: (A) cash payments made by the Borrower Parties during such period in respect of Taxes, to the extent such payments exceed the amount of tax expense deducted in calculating such Consolidated Net Income, and (B) cash payments that the Borrower Parties will be required to make in respect of Taxes within 180 days after the end of such period; provided that amounts described in this clause (B) will not reduce Excess Cash Flow in subsequent periods, and, to the extent not paid, will increase Excess Cash Flow in the subsequent period; *plus*
  - (vi) ***capital expenditures and investments***: cash payments made by the Borrower Parties during such period in respect of capital expenditures or Investments (including Permitted Investments (including in Cash Equivalents but only to the extent (i) appearing (or would be required to appear) as “restricted” on a balance sheet of such person or are subject to any Lien (in each case, unless related to the Loan Documents) or (ii) are deposits for the benefit of customers, suppliers or other commercial counterparties), any acquisitions and acquisitions of intellectual property) made pursuant to Section 7.05; *plus*

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- (vii) **dispositions**: an amount equal to the aggregate net non-cash gain on Dispositions by the Borrower Parties during such period (other than Dispositions in the ordinary course of business) to the extent included in arriving at such Consolidated Net Income and the net cash loss on Dispositions to the extent otherwise added to arrive at Consolidated Net Income; *plus*
  - (viii) **cash payments for long-term liabilities**: all cash payments made by the Borrower Parties during such period in respect of long-term liabilities of the Borrower Parties (other than payments on Indebtedness for borrowed money) to the extent such payments are not expensed during such period or are not deducted in calculating Consolidated Net Income, except to the extent financed with the proceeds of long-term Indebtedness of the Borrower Parties; *plus*
  - (ix) **cash payments from internal cash flow**: any cash expenditures made by the Borrower Parties from internally generated cash flow (to the extent not deducted in arriving at Consolidated Net Income) of the Borrower Parties (including (x) fees, financing fees, expenses and purchase price adjustments with respect to transactions (whether or not consummated) and (y) rental, interest or other payments made or to be made in respect of any lease, concession or license of property before or after the Closing Date to the extent that such expenditures are not expensed (or exceed the amount that is expensed) in such period or are not deducted in arriving at such Consolidated Net Income); *plus*
  - (x) **swap obligations**: cash expenditures made by the Borrower Parties in respect of Swap Obligations or Swap Contracts during such period to the extent not deducted in arriving at such Consolidated Net Income; *plus*
  - (xi) **minority Equity Interests**: the aggregate amount of net income in respect of minority Equity Interests in any Person for such period included in arriving at such Consolidated Net Income; *plus*
  - (xii) **acquisitions and Investments**: the aggregate amount of any payments in respect of purchase price adjustments or earn-outs made in cash during such period by any Borrower Party in connection with any acquisition or other Investment permitted hereunder;

provided that (A) with respect to clauses (b)(vi), (vii), (viii), (ix) and (xii) above, at the option of the Parent Borrower, (1) the amount shall also include any amount committed to be paid pursuant to a binding contract in any subsequent period so long as to the extent such amount is not actually paid as committed in such subsequent period, such amount shall be added back in calculating Excess Cash Flow for such subsequent period and (2) the amount shall also include any payment made after such period and prior to the date on which the Excess Cash Flow calculation is due so long as such amount will not be deducted in subsequent periods and (B) any reductions to clause (a) pursuant to clauses (b)(iii), (iv), (v), (vi), (viii), (x) or (xii) shall only be made to the extent any such payments were financed with internally generated cash flow or borrowings under any revolving credit facility (including the Revolving Credit Facility).

“Excess Cash Flow Period” means any fiscal year of the Parent Borrower, commencing with the fiscal year ending on December 31, 2026.

“Exchange Act” means the U.S. Securities Exchange Act of 1934, as amended, and the rules and regulations of the SEC promulgated thereunder.

“Exchange Agent” means (a) the Administrative Agent or (b) any other financial institution or advisor employed by the Parent Borrower (whether or not an Affiliate of the Administrative Agent), after consultation with the Administrative Agent, to act as an arranger in connection with any Permitted Debt Exchange pursuant to Section 2.19; provided that the Parent Borrower shall not designate the Administrative Agent as the Exchange Agent without the written consent of the Administrative Agent (it being understood that the Administrative Agent shall be under no obligation to agree to act as the Exchange Agent); provided, further, that neither the Parent Borrower nor any of their Affiliates may act as the Exchange Agent.

“Excluded Accounts” means (a) payroll, healthcare and other employee wage and benefit accounts, (b) tax accounts, including sales tax accounts, (c) escrow, defeasance and redemption accounts, (d) fiduciary or trust accounts, (e) disbursement accounts, (f) accounts subject to cash pooling arrangements, (g) zero balance accounts, (h) cash collateral accounts securing credit card facilities, merchant accounts and letter of credit facilities, (i) other accounts the average daily balance of which does not exceed, in the aggregate, \$5,000,000, (j) any deposit account, securities account or similar account and the assets contained therein, in each case that is located outside of the United States and that is subject to a cash pooling or similar arrangement, including any notional cash pool and (k) the funds or other property held in or maintained for such purposes in any such account described in clauses (a) through (j).

“Excluded Contributions” means the net cash proceeds and Cash Equivalents, or the Fair Market Value of other assets, received by the Parent Borrower after the Closing Date from:

- (1) contributions to its common equity capital, and
- (2) the sale of Capital Stock (other than Excluded Equity) of the Parent Borrower,

in each case designated as Excluded Contributions pursuant to an officer’s certificate of a Responsible Officer, or that has been utilized to make a Restricted Payment pursuant to Section 7.05(b)(ii). Excluded Contributions will be excluded from the calculation of the Available Amount.

“Excluded Equity” means (a) Disqualified Stock, (b) any Equity Interests issued or sold to a Restricted Subsidiary or any employee stock ownership plan or trust established by the Parent Borrower or any of its Subsidiaries (to the extent such employee stock ownership plan or trust has been funded by the Parent Borrower or any Subsidiary) and (c) any Equity Interest that has already been used or designated (x) as (or the proceeds of which have been used or designated as) a Cash Contribution Amount, an Excluded Contribution or Refunding Capital Stock, or (y) to increase the amount available under Section 7.05(b)(iv)(A) or clause (14) of the definition of “Permitted Investments”.

“Excluded Information” has the meaning specified in Section 10.07(j).

“Excluded Property” means, with respect to any Loan Party or Grantor or any direct or indirect Subsidiary of such Loan Party or Grantor:

- (a) any fee-owned real property and any leased or subleased real property;

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- (b) motor vehicles and other assets subject to certificates of title to the extent a Lien thereon cannot be perfected by filing a general all-asset UCC financing statement (or analogous filing in the jurisdiction of the applicable Borrower or Guarantor), letter of credit rights and commercial tort claims (other than letter of credit rights and commercial tort claims that can be perfected by the filing of a general all-asset UCC financing statement);
- (c) assets to the extent a security interest in such assets would result in material adverse tax consequences (including as a result of the operation of Section 956 of the Code or any similar law or regulation in any applicable jurisdiction; provided that any exclusions as a result of (x) Section 956 of the Code or (y) any similar law or regulation in effect as of the Foreign Effective Date in a Covered Jurisdiction or the jurisdiction of incorporation of a Grantor (or a Restricted Subsidiary that would, but for this provision, be required to be a Grantor) as of the Foreign Effective Date shall not apply to Equity Interests of any Loan Party organized in a Covered Jurisdiction or other Restricted Subsidiary organized in a Covered Jurisdiction) or material adverse regulatory consequences, in each case, as reasonably determined by the Parent Borrower;
- (d) pledges of, and security interests in, assets in favor of the Collateral Agent which (x) are prohibited by applicable Law or any Contractual Obligation binding on such assets on the Spin-off Date or at the time of its acquisition and not entered into in contemplation thereof or (y) require governmental or third party consent, approval, license or authorization, as applicable, in each case that has not been obtained; provided that (i) any such limitation described in this clause (d) on the security interests granted under the Collateral Documents shall only apply to the extent that any such prohibition would not be rendered ineffective pursuant to the UCC or any other applicable Law or principles of equity and shall not apply (where the UCC or similar provision of other applicable Law is applicable) to any proceeds or receivables thereof, the assignment of which is expressly deemed effective under the UCC or other applicable law, notwithstanding such prohibition and (ii) in the event of the termination or elimination of any such prohibition contained in any applicable Law or Contractual Obligation, a security interest in such assets shall be automatically and simultaneously granted under the applicable Collateral Documents and shall be included as Collateral (unless such asset would otherwise constitute Excluded Property pursuant to another clause hereto);
- (e) any governmental licenses or state or local franchises, charters and authorizations, to the extent security interests in favor of the Collateral Agent in such licenses, franchises, charters or authorizations are prohibited or restricted thereby, in each case, except to the extent such prohibition is unenforceable after giving effect to the applicable anti-assignment provisions of the UCC or other applicable Law and other than proceeds and receivables thereof; provided that (i) any such limitation described in this clause (e) on the security interests granted under the Collateral Documents shall only apply to the extent that any such prohibition or restriction would not be rendered ineffective pursuant to the UCC or any other applicable Law or principles of equity and (ii) in the event of the termination or elimination of any such prohibition or restriction contained in any applicable license, franchise, charter or authorization, a security interest in such licenses, franchises, charters or authorizations shall be automatically and simultaneously granted under the applicable Collateral Documents and shall be included as Collateral (unless such asset would otherwise constitute Excluded Property pursuant to another clause hereto);



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- (f) Equity Interests in (i) any not-for-profit Subsidiary, (ii) any captive insurance Subsidiary, (iii) any Receivables Subsidiary, (iv) any Unrestricted Subsidiary, (v) any Immaterial Subsidiary (other than a Korean Subsidiary), except to the extent perfected by the filing of a general all-asset UCC financing statement, (vi) any Person which is acquired after the date hereof to the extent and for so long as such Equity Interests are pledged in respect of Acquired Indebtedness and such pledge constitutes a Permitted Lien and (vii) non-Wholly Owned Restricted Subsidiaries and any entities which do not constitute Subsidiaries, but only to the extent that (x) the Organization Documents or other agreements with equity holders of such Restricted Subsidiaries or entities do not permit the pledge of such Equity interests or (y) the pledge of such Equity Interests (including any exercise of remedies) would result in a change of control, repurchase obligation or other adverse consequences to any of the Loan Parties or such Restricted Subsidiary or entity;
  - (g) any lease, license or other agreement or any property subject to a purchase money security interest, Capitalized Lease Obligation or similar arrangement in each case permitted to be incurred under this Agreement, to the extent that a grant of a security interest therein would violate or invalidate such lease, license or agreement or purchase money arrangement or create a right of termination in favor of any other party thereto (other than a Loan Party or their Wholly Owned Subsidiaries), in each case, except to the extent such prohibition is unenforceable after giving effect to the applicable anti-assignment provisions of the UCC or other applicable Law, other than (where the UCC or similar provision of other applicable Law is applicable) proceeds and receivables thereof, the assignment of which is expressly deemed effective under the UCC or other applicable Law, notwithstanding such prohibition;
  - (h) “intent-to-use” trademark applications to the extent that, and solely during the period prior to the filing and acceptance of evidence of use of such trademark, the grant of a security interest therein would impair the validity or enforceability of such intent-to-use trademark application under Federal law;
  - (i) any assets sold pursuant to a Qualified Receivables Factoring or Qualified Receivables Financing;
  - (j) Voting Stock in excess of 65% of the Voting Stock of any Excluded Tax Subsidiary, other than (i) Voting Stock in a Loan Party, (ii) Voting Stock owned by a Loan Party that is a Non-U.S. Subsidiary and (iii) Voting Stock in a Korean Subsidiary;
  - (k) Margin Stock;
  - (l) Excluded Accounts;
  - (m) any assets of (including Equity Interests (but excluding Equity Interests in any Korean Subsidiary) held by) (i) any Excluded Tax Subsidiary other than a Loan Party, (ii) any not-for-profit Subsidiary, (iii) any captive insurance Subsidiary or (iv) any Receivables Subsidiary;
  - (n) cash and other deposits used to secure letter of credit reimbursement obligations to the extent such letters of credit are permitted by this Agreement;
  - (o) any assets (other than Equity Interests) located outside of the United States with a value (as determined in good faith by the Parent Borrower) of less than \$20,000,000, except to the extent perfected by the filing of a general all-asset UCC financing statement or owned by a Loan Party that is not a U.S. Loan Party;

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- (p) any assets excluded by application of the Agreed Security Principles;
  - (q) any other assets for which the Administrative Agent and the Borrower Representative agree (in writing) that the cost of obtaining or perfecting a security interest in such assets is excessive in relation to either the value of such assets as Collateral or the benefit of the Lenders of the security afforded thereby; and
  - (r) any assets to be Disposed as contemplated by and pursuant to the Separation Agreements.

Notwithstanding anything herein or the Collateral Documents to the contrary, Excluded Property shall not include any Proceeds (as defined in the UCC), substitutions or replacements of any Excluded Property (unless such Proceeds, substitutions or replacements would otherwise constitute Excluded Property referred to above).

“Excluded Subsidiary,” means, subject to the last paragraph of Section 6.12, any Subsidiary that is (a) an Unrestricted Subsidiary, (b) a Restricted Subsidiary that is not a Wholly Owned Subsidiary (provided that any Subsidiary Guarantor that ceases to be a Wholly Owned Subsidiary shall only become an Excluded Subsidiary to the extent it satisfies the release requirements set forth in Section 9.11(e)), (c) an Immaterial Subsidiary, (d) an Excluded Tax Subsidiary, (e) [reserved], (f) a Non-U.S. Subsidiary for which the providing of a guarantee would reasonably be expected to result in a violation or breach of, or conflict with, fiduciary duties of such Non-U.S. Subsidiary’s officers, directors, or managers, (g) a Subsidiary that is prohibited by applicable Law from guaranteeing the Facilities, or which would require governmental (including regulatory) consent, approval, license or authorization to provide a guarantee unless, such consent, approval, license or authorization has been received, (h) a Subsidiary that is prohibited from guaranteeing the Facilities by any Contractual Obligation in existence on the Closing Date (but not entered into in contemplation thereof) and for so long as any such Contractual Obligation exists (or, in the case of any newly-acquired Subsidiary, in existence at the time of acquisition thereof but not entered into in contemplation thereof and for so long as any such Contractual Obligation exists), (i) a Subsidiary with respect to which a guarantee by it of the Facilities would result in material adverse tax consequences to the Parent Borrower or one or more of its Restricted Subsidiaries, as reasonably determined by the Borrower Representative (other than, with respect to a Subsidiary formed in a Covered Jurisdiction, as a result of the operation of Section 956 of the Code), (j) any Receivables Subsidiary, (k) not-for-profit Subsidiaries, (l) [reserved], (m) any Korean Subsidiary and any Subsidiary not organized, formed or incorporated in a Covered Jurisdiction, (n) captive insurance Subsidiaries, and (o) any other Subsidiary with respect to which, in the reasonable judgment of the Administrative Agent and the Parent Borrower, the cost or other consequences (including any adverse tax consequences) of guaranteeing the Facilities would be excessive in view of the benefits to be obtained by the Lenders therefrom; provided that if a Subsidiary executes the Guaranty as a “Guarantor” or a “Subsidiary Guarantor” and at the time of such execution, such Subsidiary is an entity described in clauses (a) through (d) or clauses (i) through (o) above, then it shall not constitute an “Excluded Subsidiary” as a result of being an entity described in such clauses(s) (unless released from its obligations under the Guaranty as a “Guarantor” or a “Subsidiary Guarantor” in accordance with the terms hereof and thereof, including by virtue of later becoming an Excluded Subsidiary pursuant to a different clause of this definition); provided, further, that no Subsidiary of the Parent Borrower shall be an Excluded Subsidiary if such Subsidiary is a guarantor with respect to the Senior Notes or any Refinancing Notes or any Incremental Equivalent Debt or any other Indebtedness for borrowed money secured all or in part by the Collateral, in each case, with an aggregate outstanding principal amount in excess of the Threshold Amount; provided, further, that no Borrower or Co-Borrower may be an Excluded Subsidiary.

“Excluded Swap Obligation” means, with respect to any Guarantor, (a) any Swap Obligation if, and to the extent that, all or a portion of the Guarantee of such Guarantor of, or the grant by such Guarantor of a security interest to secure, such Swap Obligation (or any Guarantee thereof) is or becomes illegal under the Commodity Exchange Act or any rule, regulation, or order of the Commodity Futures Trading Commission (or the application or official interpretation of any thereof) (i) by virtue of such Guarantor’s failure to constitute an “eligible contract participant,” as defined in the Commodity Exchange Act and the regulations thereunder (determined after giving effect to any applicable keepwell, support, or other agreement for the benefit of such Guarantor), at the time the guarantee of (or grant of such security interest by, as applicable) such Guarantor becomes or would become effective with respect to such Swap Obligation or (ii) in the case of a Swap Obligation that is subject to a clearing requirement pursuant to section 2(h) of the Commodity Exchange Act, because such Guarantor is a “financial entity,” as defined in section 2(h)(7)(C) of the Commodity Exchange Act, at the time the guarantee of (or grant of such security interest by, as applicable) such Guarantor becomes or would become effective with respect to such Swap Obligation or (b) any other Swap Obligation designated as an “Excluded Swap Obligation” of such Guarantor as specified in any agreement between the relevant Loan Parties and Hedge Bank applicable to such Swap Obligation.

“Excluded Tax Subsidiary” means (a) any Subsidiary of the Parent Borrower that is a Non-U.S. Subsidiary, (b) any FSHCO or (c) any direct or indirect Subsidiary of a FSHCO or Controlled Foreign Subsidiary; provided that Excluded Tax Subsidiary shall not include any Restricted Subsidiary organized in a Covered Jurisdiction (other than Korea) that is otherwise required to be a Guarantor hereunder.

“Excluded Taxes” means any of the following Taxes imposed on or with respect to a Recipient or required to be withheld or deducted from a payment to a Recipient: (a) Taxes imposed on or measured by such Recipient’s net income (however denominated), franchise Taxes, and branch profits Taxes, in each case, (i) imposed as a result of such Recipient being organized under the Laws of, or having its principal office or, in the case of any Lender, its applicable Lending Office located in, the jurisdiction imposing such Tax (or any political subdivision thereof) or (ii) that are Other Connection Taxes, (b) in the case of a Recipient (other than any Recipient (i) becoming a party hereto pursuant to a request by any Loan Party under Section 3.08 or (ii) changing its Lending Office under Section 3.01(f) or Section 3.07), any U.S. federal withholding Taxes imposed pursuant to a Law in effect on the date on which such Recipient becomes a party hereto or changes its Lending Office, except in each case to the extent that, pursuant to Section 3.01, additional amounts with respect to such Taxes were payable either to such Recipient’s assignor immediately before such Recipient became a party hereto or to such Recipient immediately before it changed its Lending Office, (c) Taxes attributable to such Recipient’s failure to comply with Section 3.01(g) and (d) any Taxes imposed under FATCA.

“Existing Letter of Credit” means a letter of credit issued by an L/C Issuer designated in writing by the Parent Borrower and such L/C Issuer to the Administrative Agent on or prior to the Closing Date as an “Existing Letter of Credit”.

“Existing Loans” has the meaning specified in Section 2.22(a).

“Existing Revolving Loans” has the meaning specified in Section 2.22(a).

“Existing Revolving Tranche” has the meaning specified in Section 2.22(a).

“Existing Term Loans” has the meaning specified in Section 2.22(a).

“Existing Term Tranche” has the meaning specified in Section 2.22(a).

“Existing Tranche” has the meaning specified in Section 2.22(a).

“Extendable Bridge Loans/Interim Debt” means “bridge” financings (including “bridge” loans), escrow or similar arrangements, which by their terms will be converted (subject to customary conditions to conversion for a debt instrument of a similar type) into loans or other Indebtedness that have, or extended such that they have, a maturity date later than the Latest Maturity Date of the Term Facilities then-outstanding.

“Extended Loans” has the meaning specified in Section 2.22(a).

“Extended Loans Agent” has the meaning specified in Section 2.22(a).

“Extended Revolving Commitments” has the meaning specified in Section 2.22(a).

“Extended Revolving Tranche” has the meaning specified in Section 2.22(a).

“Extended Term Loans” has the meaning specified in Section 2.22(a).

“Extended Term Tranche” has the meaning specified in Section 2.22(a).

“Extended Tranche” has the meaning specified in Section 2.22(a).

“Extending Lender” has the meaning specified in Section 2.22(b).

“Extension” has the meaning specified in Section 2.22(b).

“Extension Amendment” has the meaning specified in Section 2.22(c).

“Extension Date” has the meaning specified in Section 2.22(d).

“Extension Election” has the meaning specified in Section 2.22(b).

“Extension Request” has the meaning specified in Section 2.22(a).

“Extension Request Deadline” has the meaning specified in Section 2.22(b).

“Facility” means each Term Facility and/or the Revolving Credit Facility (including the Letter of Credit Sublimit), as the context may require.

“Factoring Transaction” means any transaction or series of transactions that may be entered into by Parent Borrower or any Restricted Subsidiary pursuant to which Parent Borrower or such Restricted Subsidiary may sell, convey, assign or otherwise transfer Receivables Assets (which may include a backup or precautionary grant of security interest in such Receivables Assets so sold, conveyed, assigned or otherwise transferred or purported to be so sold, conveyed, assigned or otherwise transferred) to any Person that is not a Restricted Subsidiary; provided that any such person that is a Subsidiary meets the qualifications in clauses (1)–(3) of the definition of “Receivables Subsidiary”.

“Failed Auction” has the meaning specified in the definition of “Dutch Auction.”

“Fair Market Value” means, with respect to any asset or property, the price that would be negotiated in an arm’s-length, free market transaction, for cash, between a willing seller and a willing and able buyer, neither of whom is under undue pressure or compulsion to complete the transaction (as determined in good faith by the senior management or the Board of Directors of the Parent Borrower, whose determination will be conclusive for all purposes under the Loan Documents); provided that with respect to any transaction in which the Parent Borrower or any of its Restricted Subsidiaries, as the case may be, obtains a letter or report from an Independent Financial Advisor stating that the price and/or compensation received in connection with such transaction is the fair market value for such asset or property, such report or letter will be conclusive evidence of the Fair Market Value for purposes of this Agreement.

“FATCA” means Sections 1471 through 1474 of the Code, as of the date of this Agreement (or any amended or successor version that is substantively comparable and not materially more onerous to comply with), any current or future Treasury regulations or official administrative interpretations thereof, any agreements entered into pursuant to current Section 1471(b)(1) of the Code (or any amended or successor version described above) and any intergovernmental agreements implementing the foregoing (together with any Laws or practices implementing such agreements).

“Federal Funds Rate” means, for any day, the rate calculated by the NYFRB based on such day’s federal funds transactions by depository institutions, as determined in such manner as shall be set forth on the NYFRB’s Website from time to time, and published on the next succeeding Business Day by the NYFRB as the effective federal funds rate; provided that if the Federal Funds Rate as so determined would be less than 0%, such rate shall be deemed to be 0% for the purposes of this Agreement.

“Fee Letters” means that certain (a) Fee Letter, dated as of June 4, 2025, by and between the Parent Borrower and JPMorgan and (b) Fee Letter, dated as of June 4, 2025, by and between the Parent Borrower and SMBC.

“Financial Covenant” means the financial covenant applicable from time to time under Section 7.08.

“Financial Covenant Event of Default” has the meaning specified in Section 8.01(b).

“Floor” means the benchmark rate floor, if any, provided in this Agreement initially (as of the execution of this Agreement, the modification, amendment or renewal of this Agreement or otherwise) with respect to the Term SOFR Rate or the Daily Simple SOFR. For the avoidance of doubt, the Floor with respect to the Revolving Credit Loans and the Initial Term Loans shall be 0% per annum.

“Foreign Effective Date” has the meaning specified in Section 4.01(a).

“Foreign Loan Party Provisions” means the Foreign Loan Party Provisions set forth on Schedule 1.13.

“Form 10” means the Registration Statement on Form 10 (including the information statement and the other exhibits filed therewith or incorporated by reference therein) filed by the Parent Borrower with the SEC on April 24, 2025, as amended, supplemented or otherwise modified from time to time prior to the Closing Date.

“Fraudulent Conveyance” has the meaning specified in Section 10.24(b).

“FRB” means the Board of Governors of the Federal Reserve System of the United States.

“Fronting Exposure” means, at any time there is a Defaulting Lender under any Tranche of the Revolving Credit Facility, with respect to an L/C Issuer under such Tranche, such Defaulting Lender’s Pro Rata Share of the outstanding L/C Obligations under such Tranche (other than L/C Obligations as to which such Defaulting Lender’s participation obligation has been reallocated to other Non-Defaulting Lenders under such Tranche or Cash Collateralized in accordance with the terms hereof).

“FSHCO” means any Subsidiary of the Parent Borrower that is organized under the laws of the United States, any state thereof or the District of Columbia, in each case, which Subsidiary owns no material assets other than Capital Stock and/or indebtedness of one or more Controlled Foreign Subsidiaries or another FSHCO.

“Fund” means any Person (other than a natural person) that is engaged in making, purchasing, holding or otherwise investing in commercial loans and similar extensions of credit in the ordinary course of its business.

“GAAP” means, subject to Section 1.03(b), generally accepted accounting principles in the United States of America as in effect as of the date of determination thereof.

“Global Intercompany Note” has the meaning specified in Section 4.01(a)(iv).

“Governmental Authority” means any nation or government, any state or other political subdivision thereof, any agency, authority, instrumentality, regulatory body, court, administrative tribunal, central bank or other entity exercising executive, legislative, judicial, taxing, regulatory or administrative powers or functions of or pertaining to government; including any applicable supranational bodies (such as the European Union or the European Central Bank).

“Granting Lender” has the meaning specified in Section 10.07(g).

“Grantor” means each Restricted Subsidiary of Parent Borrower (other than a Borrower or a Guarantor) that has granted a security interest in any Collateral in favor of the Collateral Agent for the benefit of the Secured Parties.

“Guarantee” means, as to any Person, without duplication, (a) any obligation, contingent or otherwise, of such Person guaranteeing or having the economic effect of guaranteeing any Indebtedness or other monetary obligation payable or performable by another Person (the “primary obligor”) in any manner, whether directly or indirectly, and including any Obligation of such Person, direct or indirect (i) to purchase or pay (or advance or supply funds for the purchase or payment of) such Indebtedness or other monetary obligation, (ii) to purchase or lease property, securities or services for the purpose of assuring the obligee in respect of such Indebtedness or other monetary obligation of the payment or performance of such Indebtedness or other monetary obligation, (iii) to maintain working capital, equity capital or any other financial statement condition or liquidity or level of income or cash flow of the primary obligor so as to enable the primary obligor to pay such Indebtedness or other monetary obligation or (iv) entered into for the purpose of assuring in any other manner the obligee in respect of such Indebtedness or other monetary obligation of the payment or performance thereof or to protect such obligee against loss in respect thereof (in whole or in part), or (b) any Lien on any assets of such Person securing any Indebtedness or other monetary obligation of any other Person, whether or not such Indebtedness or other monetary obligation is assumed by such Person (or any right, contingent or otherwise, of any holder of such Indebtedness to obtain any such Lien); provided that the term “Guarantee” shall not include endorsements for collection or deposit, in either case in the ordinary course of business, or customary or reasonable indemnity obligations in effect on the Closing Date, or entered into in connection with any acquisition or Disposition of assets permitted under this Agreement (other than such obligations with respect to Indebtedness). The amount of any Guarantee shall be deemed to be an amount equal to the stated or determinable amount of the related primary obligation, or portion thereof, in respect of which such Guarantee is made or, if not stated or determinable, the maximum reasonably anticipated liability in respect thereof as determined by the guaranteeing Person in good faith. The term “Guarantee” as a verb has a corresponding meaning.

“Guarantors” means, collectively, (a) the Parent Borrower (solely with respect to the obligations of any Subsidiary Borrower and in respect of Secured Cash Management Agreements and Secured Hedge Agreements), (b) each other Borrower, (c) as of the Closing Date, the Subsidiaries of the Parent Borrower organized in a Covered Jurisdiction (other than any Korean Subsidiary) and listed on Schedule 1.01(b) and (d) each other Subsidiary of the Parent Borrower organized in a Covered Jurisdiction (other than any Korean Subsidiary) that shall be required to execute and deliver (or otherwise does execute and deliver) a guaranty or guaranty supplement pursuant to Section 6.12 or 6.16, unless it has ceased to be a Guarantor pursuant to the terms hereof.

“Guaranty” means the Guaranty made by the Parent Borrower and the Subsidiary Guarantors in favor of the Administrative Agent on behalf of the Secured Parties, substantially in the form of Exhibit E, together with each other guaranty and guaranty supplement delivered pursuant to Section 6.12 or 6.16.

“Hazardous Materials” means all explosive or radioactive substances or wastes and all hazardous or toxic substances, materials or wastes, including petroleum or petroleum distillates, asbestos or asbestos-containing materials, toxic mold, per- and polyfluoroalkyl substances, polychlorinated biphenyls, radon gas, infectious or medical wastes and all other hazardous or toxic substances or wastes regulated pursuant to any Environmental Law.

“Hedge Bank” means any Person that (a) at the time it enters into a Swap Contract or within sixty (60) days thereafter, is a Lender or an Agent or an Affiliate of a Lender or an Agent, (b)(i) in the case of any Swap Contract in effect on or prior to the Closing Date, is, as of the Closing Date or within sixty (60) days thereafter, a Lender or an Agent or an Affiliate of a Lender or an Agent and a party to a Swap Contract, (ii) in the case of any Swap Contract in effect on or prior to the date of any amendment, restatement or amendment and restatement to this Agreement (including any incremental amendment), is, as of the date of such amendment, restatement or amendment and restatement to this Agreement or within sixty (60) days thereafter, a Lender or an Agent or an Affiliate of a Lender or an Agent and a party to a Swap Contract, (c) is a party to a Swap Contract and whose long-term senior unsecured debt rating is A/A2 by S&P or Moody’s (or their equivalent) or higher or (d) is designated from time to time by the Borrower Representative in writing to the Administrative Agent.

“Honor Date” has the meaning specified in Section 2.03(d)(i).

“Immaterial Subsidiary” means any Subsidiary of the Parent Borrower that, for any Test Period, does not have both (a) total assets (when combined with the assets of all other Immaterial Subsidiaries, after eliminating intercompany obligations) in excess of 5.0% of Consolidated Total Assets and (b) consolidated revenues (when combined with the consolidated revenues of all other Immaterial Subsidiaries, after eliminating intercompany obligations) in excess of 5.0% of the consolidated revenues of the Parent Borrower and the Restricted Subsidiaries for such Test Period; provided that (x) at all times prior to the first delivery of financial statements pursuant to Section 6.01(a) or (b), this definition shall be applied based on the Pro Forma Financial Statements delivered to the Administrative Agent prior to the date hereof, and (y) any Subsidiary existing on the Closing Date pursuant to the definition of “Excluded Subsidiary” (other than pursuant to clause (c) thereof) that (1) is not a Guarantor on the Closing Date or (2) as of the Closing Date, is not required to become a Guarantor pursuant to Section 6.16, shall not, in each case, be deemed to be an “Immaterial Subsidiary” for purposes of the definition of “Excluded Subsidiary” and the requirements of Section 6.12.

“Increase Effective Date” has the meaning specified in Section 2.14(c).

“Incremental Amount” has the meaning specified in Section 2.14(a).

“Incremental Arranger” has the meaning specified in Section 2.14(a).

“Incremental Equivalent Debt” has the meaning specified in Section 2.15(a).

“Incremental Equivalent Debt Arranger” has the meaning specified in Section 2.15(a).

“Incremental Equivalent Debt Documents” means, collectively, the indentures, credit agreements, facilities agreements or other similar agreements pursuant to which any Incremental Equivalent Debt is incurred, together with all instruments and other agreements in connection therewith, as amended supplemented or otherwise modified from time to time in accordance with the terms thereof, but only to the extent permitted under the terms of the Loan Documents.

“Incur” means, with respect to any Indebtedness, Capital Stock or Lien, to issue, assume, guarantee, incur or otherwise become liable for such Indebtedness, Capital Stock or Lien, as applicable; provided that any Indebtedness, Capital Stock or Lien of a Person existing at the time such Person becomes a Subsidiary (whether by merger, amalgamation, consolidation, acquisition or otherwise) shall be deemed to be Incurred by such Person at the time it becomes a Subsidiary.

“Indebtedness” means, with respect to any Person, without duplication:

- (a) the principal of any indebtedness of such Person, whether or not contingent, (i) in respect of borrowed money, (ii) evidenced by bonds, notes, debentures or similar instruments or letters of credit or bankers’ acceptances (or, without duplication, reimbursement agreements in respect thereof), (iii) representing the deferred and unpaid purchase price of any property, (iv) in respect of Capitalized Lease Obligations or (v) representing any net obligations under Swap Contracts, in each case, if and to the extent that any of the foregoing Indebtedness (other than letters of credit and Swap Contracts) would appear as a liability on a balance sheet (excluding the footnotes thereto) of such Person prepared in accordance with GAAP;
- (b) to the extent not otherwise included, any guarantee by such Person of the Indebtedness of another Person (other than by endorsement of negotiable instruments for collection in the ordinary course of business); and
- (c) to the extent not otherwise included, Indebtedness of another Person secured by a Lien on any asset owned by such Person (whether or not such Indebtedness is assumed by such Person); provided, however, that the amount of such Indebtedness will be the lesser of (a) the Fair Market Value of such asset on the date such Indebtedness was Incurred or, at the option of such Person, at such date of determination, and (b) the amount of such Indebtedness of such other Person.

Notwithstanding the above provisions, in no event shall the following constitute Indebtedness:

- (i) Contingent Obligations Incurred in the ordinary course of business or consistent with past practices;
- (ii) obligations under or in respect of Receivables Financings;
- (iii) any balance that constitutes a trade payable, accrued expense or similar obligation to a trade creditor, in each case Incurred in the ordinary course of business;
- (iv) any license in the ordinary course of business;
- (v) intercompany liabilities that would be eliminated on the consolidated balance sheet of the Parent Borrower and its consolidated Subsidiaries (excluding, for the avoidance of doubt, funded Indebtedness for borrowed money);
- (vi) prepaid or deferred revenue arising in the ordinary course of business;



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- (vii) Cash Management Services;
  - (viii) any purchase price or other post-closing payment adjustments, including royalties, earnouts, contingent payments or deferred payments of a similar nature incurred in connection with any acquisition or Disposition by the Parent Borrower or any of its consolidated Subsidiaries, in each case to which the counterparty may become entitled; provided, however, that, at the time of closing, the amount of any such payment is not determinable and, to the extent such payment thereafter becomes fixed and determined, the amount is paid in a timely manner;
  - (ix) any obligations that would otherwise constitute Indebtedness, to the extent (i) of any funds that are irrevocably deposited with the trustee or agent or otherwise for the benefit of the holders thereof and (ii) an irrevocable and unconditional notice of redemption, offer to purchase or notice of prepayment under the instrument governing such indebtedness has been delivered, in each case, in connection with the redemption, tender, defeasance or other early payment of such indebtedness, either in whole or in part;
  - (x) any obligations in respect of workers' compensation claims, early retirement or termination obligations, payroll liabilities, deferred compensation, employee or director equity plans, pension fund obligations or contributions or similar claims, obligations or contributions or social security or wage taxes;
  - (xi) Capital Stock (other than Disqualified Stock and Preferred Stock);
  - (xii) any Permitted Bond Hedge Transaction or Permitted Warrant Transaction;
  - (xiii) indebtedness that constitutes "Indebtedness" merely by virtue of a pledge of an Investment (without any accompanying guaranty) in an Unrestricted Subsidiary;
  - (xiv) prepayments of deposits received from clients or customers in the ordinary course of business or consistent with past practices; or
  - (xv) obligations under any license, permit or other approval (or guarantees given in respect of such obligations) Incurred prior to the Closing Date or in the ordinary course of business or consistent with past practices.

"Indemnified Liabilities" has the meaning specified in Section 10.05.

"Indemnified Taxes" means (a) all Taxes, other than Excluded Taxes, imposed on or with respect to any payment made by or on account of any obligation of any Loan Party or Grantor under any Loan Document and (b) to the extent not otherwise described in (a), all Other Taxes.

"Indemnitees" has the meaning specified in Section 10.05.

"Independent Financial Advisor" means an accounting, appraisal or investment banking firm or consultant, in each case of nationally recognized standing that is, in the good faith determination of the Parent Borrower, qualified to perform the task for which it has been engaged.

"Information" has the meaning specified in Section 10.08.

"Initial Term Borrowing" means a borrowing consisting of Initial Term Loans of the same Type and, in the case of Term Benchmark Loans, having the same Interest Period made by each of the applicable Term Lenders pursuant to Section 2.01(a), in each case, on the Closing Date.

“Initial Term Commitment” means, as to each Term Lender, its obligation to make Initial Term Loans to the Parent Borrower pursuant to Section 2.01(a) in an aggregate principal amount not to exceed the amount set forth opposite such Term Lender’s name on Schedule 2.01 under the caption “Initial Term Commitment” as such amount may be adjusted from time to time in accordance with this Agreement. The initial aggregate amount of the Initial Term Commitments is \$2,350,000,000.

“Initial Term Facility” means the facility in respect of the Initial Term Loans and Initial Term Commitments.

“Initial Term Loans” has the meaning specified in Section 2.01(a).

“Inside Maturity Basket” means, with respect to any Indebtedness Incurred in reliance upon the Inside Maturity Basket, an aggregate principal amount for all such Indebtedness equal to the greater of (a) \$975,000,000 and (b) 75% of the EBITDA Grower Amount.

“Intellectual Property Cross-License Agreement” has the meaning specified in the definition of “Separation Agreements”.

“Intellectual Property Security Agreement” means, collectively, the intellectual property security agreement, substantially in the form of Exhibit B to the U.S. Security Agreement, entered into by the applicable Loan Parties dated the Spin-off Date, together with each other intellectual property security agreement or Intellectual Property Security Agreement Supplement executed and delivered pursuant to Section 6.12 or Section 6.16.

“Intellectual Property Security Agreement Supplement” means, collectively, any intellectual property security agreement supplement entered into in connection with, and pursuant to the terms of, any Intellectual Property Security Agreement.

“Intercompany Subordination Agreement” means an intercompany subordination agreement dated as of a date on or prior to the date that is ninety (90) days after the Closing Date (or such later date as the Administrative Agent may agree in its reasonable discretion), in substantially the form of Exhibit H hereto, or otherwise in form and substance reasonably satisfactory to the Administrative Agent, as may be supplemented from time to time.

“Intercreditor Agreement” means that certain pari passu intercreditor agreement, dated as of the Spin-off Date, by and among the Administrative Agent, the Collateral Agent, the Senior Notes Trustee and the Senior Secured Notes Collateral Agent and acknowledged by each Loan Party and each Grantor from time to time party thereto.

“Interest Payment Date” means, (a) with respect to any Base Rate Loan, (i) fifteen days after the last day of each March, June, September and December and (ii) the applicable Maturity Date and (b) with respect to any Term Benchmark Loan, (i) the last day of each Interest Period applicable to the Borrowing of which such Loan is a part and, in the case of a Term Benchmark Borrowing with an Interest Period of more than three (3) months’ duration, each day prior to the last day of such Interest Period that occurs at intervals of three (3) months’ duration after the first day of such Interest Period, and (ii) the applicable Maturity Date.

“Interest Period” means, with respect to any Term Benchmark Borrowing, the period commencing on the date of such Borrowing and ending on the numerically corresponding day in the calendar month that is one (1), three (3) or six (6) months (or, with the consent of each applicable Lender (including with respect to the applicable Term SOFR Reference Rate and applicable credit spread adjustment), twelve (12) months) thereafter (in each case, subject to the availability for the Benchmark applicable to the relevant Loan or

Commitment), as a Borrower may elect; provided that (i) if any Interest Period would end on a day other than a Business Day, such Interest Period shall be extended to the next succeeding Business Day unless, in the case of a Term Benchmark Borrowing only, such next succeeding Business Day would fall in the next calendar month, in which case such Interest Period shall end on the next preceding Business Day, (ii) any Interest Period pertaining to a Term Benchmark Borrowing that commences on the last Business Day of a calendar month (or on a day for which there is no numerically corresponding day in the last calendar month of such Interest Period) shall end on the last Business Day of the last calendar month of such Interest Period, and (iii) no tenor that has been removed from this definition pursuant to Section 3.04(g) shall be available for specification in such Committed Loan Notice for so long as such tenor has been removed. For purposes hereof, the date of a Borrowing initially shall be the date on which such Borrowing is made and, in the case of a Revolving Credit Borrowing, thereafter shall be the effective date of the most recent conversion or continuation of such Borrowing.

“Investment” means, with respect to any Person, all investments by such Person in other Persons (including Affiliates) in the form of (a) loans (including guarantees of Indebtedness), (b) advances or capital contributions (excluding accounts receivable, credit card and debit card receivables, trade credit and advances or other payments made to customers, dealers, suppliers and distributors and payroll, commission, travel and similar advances to officers, directors, managers, employees, consultants and independent contractors made in the ordinary course of business), and (c) purchases or other acquisitions for consideration of Indebtedness, Equity Interests or other securities issued by any such other Person. In no event shall a guarantee of an operating lease of any Borrower or any Restricted Subsidiary be deemed an Investment.

For purposes of the definition of “Unrestricted Subsidiary” and Section 7.05:

- (1) “Investments” shall include the portion (proportionate to the Parent Borrower’s equity interest in such Subsidiary) of the Fair Market Value of the net assets of a Subsidiary of the Parent Borrower at the time that such Subsidiary is designated an Unrestricted Subsidiary; provided, however, that upon a redesignation of such Subsidiary as a Restricted Subsidiary, the Parent Borrower shall be deemed to continue to have a permanent Investment in an Unrestricted Subsidiary in an amount (if positive) equal to:
  - (a) the Parent Borrower’s Investment in such Subsidiary at the time of such redesignation; less
  - (b) the portion (proportionate to the Parent Borrower’s equity interest in such Subsidiary) of the Fair Market Value of the net assets of such Subsidiary at the time of such redesignation; and
- (2) any property transferred to or from an Unrestricted Subsidiary shall be valued at its Fair Market Value at the time of such transfer.

The amount of any Investment outstanding at any time (including for purposes of calculating the amount of any Investment outstanding at any time under any provision of Section 7.05 and otherwise determining compliance with Section 7.05) shall be the original cost of such Investment (determined, in the case of any Investment made with assets of any Borrower or any Restricted Subsidiary, based on the Fair Market Value of the assets invested and without taking into account subsequent increases or decreases in value), reduced by any dividend, distribution, interest payment, return of capital, repayment or other amount received in cash by any Borrower or a Restricted Subsidiary in respect of such Investment and shall be net of any Investment by such Person in any Borrower or any Restricted Subsidiary.

“Investment Grade Rating” means a rating equal to or higher than Baa3 (or the equivalent) by Moody’s and BBB- (or the equivalent) by S&P, or an equivalent rating by any other Rating Agency.

“Investment Grade Securities” means:

- (1) securities issued or directly and guaranteed or insured by the U.S. government or any agency or instrumentality thereof (other than Cash Equivalents),
- (2) securities that have an Investment Grade Rating, but excluding any debt securities or instruments constituting loans or advances among the Parent Borrower and its Subsidiaries,
- (3) investments in any fund that invests at least 95.0% of its assets in investments of the type described in clauses (1) and (2) above and clause (4) below which fund may also hold immaterial amounts of cash pending investment and/or distribution, and
- (4) corresponding instruments in countries other than the United States customarily utilized for high quality investments and in each case with maturities not exceeding two years from the date of acquisition.

“IP Rights” has the meaning specified in Section 5.16.

“IRS” means the United States Internal Revenue Service.

“ISDA CDS Definitions” has the meaning specified in Section 10.01.

“ISP” means, with respect to any Letter of Credit, the “International Standby Practices 1998” published by the Institute of International Banking Law & Practice, Inc. (or such later version thereof as may be in effect at the time of issuance and to which such Letter of Credit is subject).

“Issuer Documents” means with respect to any Letter of Credit, the Letter of Credit Application, and any other document, agreement and instrument entered into by the applicable L/C Issuer and a Borrower (or, if applicable, a Restricted Subsidiary) or in favor of such L/C Issuer and relating to such Letter of Credit.

“joint venture” means any joint venture or similar arrangement (in each case, regardless of legal formation), including, but not limited to, collaboration arrangements, profit sharing arrangements or other contractual arrangements.

“JPMorgan” means JPMorgan Chase Bank, N.A.

“Judgment Currency” has the meaning specified in Section 10.23.

“JV Distribution” means, at any time, 50% of the aggregate amount of all cash dividends or distributions received by the Parent Borrower or any of its Restricted Subsidiaries as a return on an Investment in a Permitted Joint Venture during the period from the Closing Date through the end of the fiscal quarter most recently ended immediately prior to such date for which financial statements are internally available; provided that the Parent Borrower or any of its Restricted Subsidiaries are not required to reinvest such dividends or distributions in the Permitted Joint Venture.

“Korea” means the Republic of Korea.

“Korean Subsidiary” means any Subsidiary of the Parent Borrower organized in Korea.

“L/C Advance” means, with respect to each Revolving Credit Lender, such Lender’s funding of its participation in any L/C Borrowing in accordance with its applicable Pro Rata Share.

“L/C Borrowing” means an extension of credit resulting from a drawing under any Letter of Credit which has not been reimbursed by the Borrowers on the date required under Section 2.03(d)(i) or refinanced as a Revolving Credit Borrowing.

“L/C Credit Extension” means, with respect to any Letter of Credit, the issuance thereof or extension of the expiry date thereof, or the renewal or increase of the amount thereof.

“L/C Issuer” means (a) the L/C Issuers identified on Schedule 1.01(c) in their capacities as an issuer of Letters of Credit hereunder (it being understood that none of the L/C Issuers identified in this clause (a) shall be obligated to issue any trade letters of credit or any commercial letter of credit hereunder unless such L/C Issuer consents to do so in writing) and (b) any other Lender reasonably acceptable to the Borrowers and the Administrative Agent (which consent shall not be unreasonably withheld, delayed or conditioned) that agrees to issue Letters of Credit pursuant hereto, in each case in its capacity as an issuer of Letters of Credit hereunder, or any successor issuer of Letters of Credit hereunder.

“L/C Obligations” means, as at any date of determination, the aggregate amount available to be drawn under all outstanding Letters of Credit *plus* the aggregate of all Unreimbursed Amounts, including all L/C Borrowings. For purposes of computing the amount available to be drawn under any Letter of Credit, the amount of such Letter of Credit shall be determined in accordance with Section 1.09. For all purposes of this Agreement, if on any date of determination a Letter of Credit has expired by its terms but any amount may still be drawn thereunder by reason of the operation of Rule 3.13 or Rule 3.14 of the ISP, such Letter of Credit shall be deemed to be “outstanding” in the amount so remaining available to be drawn.

“Latest Maturity Date” means, at any date of determination, the latest maturity or expiration date applicable to any Term Loan Tranche or Revolving Tranche at such time under this Agreement, in each case as extended in accordance with this Agreement from time to time.

“Laws” means, collectively, all applicable international, foreign, federal, state and local statutes, treaties, rules, guidelines, regulations, ordinances, codes and administrative or judicial precedents or authorities, including the interpretation or administration thereof by any Governmental Authority charged with the enforcement, interpretation or administration thereof, and all applicable administrative orders, directed duties, requests, licenses, authorizations and permits of, and agreements with, any Governmental Authority.

“Legal Reservations” means:

- (a) the principle that equitable remedies may be granted or refused at the discretion of a court, the limitation of enforcement by laws relating to insolvency, bankruptcy, liquidation, judicial management, reorganization, court schemes, moratoria, administration and other laws generally affecting the rights of creditors and similar principles or limitations under the laws of any applicable jurisdiction;
- (b) the time barring of claims under applicable limitation laws, the possibility that an undertaking to assume liability for or indemnify a person against non-payment of stamp duty may be void and defenses of set-off or counterclaim and similar principles or limitations under the laws of any applicable jurisdiction;

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- (c) any general principles, reservations or qualifications, in each case as to matters of law as set out in any legal opinion delivered to the Administrative Agent in connection with any provision of any Loan Document;
  - (d) the principle that any additional interest imposed under any relevant agreement may be held to be unenforceable on the grounds that it is a penalty and thus void;
  - (e) the principle that in certain circumstances security granted by way of fixed charge may be characterized as a floating charge or that security purported to be constituted by way of an assignment may be recharacterized as a charge;
  - (f) the principle that a court may not give effect to an indemnity for legal costs incurred by an unsuccessful litigant;
  - (g) the principle that the creation or purported creation of security over any contract or agreement which is subject to a prohibition against transfer, assignment or charging may be void, ineffective or invalid and may give rise to a breach entitling the contracting party to terminate or take any other action in relation to such contract or agreement;
  - (h) provisions of a contract being invalid or unenforceable for reasons of oppression or undue influence; and
  - (i) similar principles, rights and defenses under the laws of any relevant jurisdiction.

“Lender” has the meaning specified in the introductory paragraph to this Agreement and, as the context requires, includes each L/C Issuer.

“Lending Office” means, as to any Lender, the office, offices or branches of such Lender or any of its Affiliates described as such in such Lender’s Administrative Questionnaire, or such other office, offices or branches as a Lender or any of its Affiliates may from time to time notify the Borrowers and the Administrative Agent.

“Letter of Credit” means any letter of credit issued, renewed, extended or amended hereunder and shall be deemed to include each Existing Letter of Credit. A Letter of Credit may be a commercial letter of credit, a trade letter of credit or a standby letter of credit.

“Letter of Credit Application” means a request for L/C Credit Extension, substantially in the form of Exhibit A-2 hereto, together with, to the extent applicable to the applicable L/C Issuer, an application and agreement for the issuance or amendment of a Letter of Credit in the form from time to time in use by such L/C Issuer.

“Letter of Credit Expiration Date” means, subject to Section 2.03(a)(ii)(C), the day that is three (3) Business Days prior to the scheduled Maturity Date then in effect for the Revolving Credit Facility (or, if such day is not a Business Day, the immediately preceding Business Day).

“Letter of Credit Sublimit” means an amount equal to \$100,000,000. The Letter of Credit Sublimit is part of, and not in addition to, the Revolving Credit Facility.

“Leverage Excess Proceeds” means the sum of (a) any Net Cash Proceeds in respect of any such Asset Sale or Casualty Event not required to be applied in accordance with Section 2.05(b)(ii) as a result of the application of clauses (B) or (C) in the proviso to Section 2.05(b)(ii) and (b) any proceeds received in connection with any Sale/Leaseback Transaction to the extent made pursuant to the Sale/Leaseback Basket.

“Lien” means, with respect to any asset, any mortgage, lien, pledge, hypothecation, charge, security interest, preference, priority or encumbrance of any kind in respect of such asset, whether or not filed, recorded or otherwise perfected under applicable law (including any conditional sale or other title retention agreement, any lease in the nature thereof, any option or other agreement to sell or give a security interest in and any filing of or agreement to give any financing statement under the Uniform Commercial Code (or equivalent or similar statutes) of any jurisdiction); provided that in no event shall an operating lease or an agreement to sell be deemed to constitute a Lien. For the avoidance of doubt, issuing or settling conversions of Convertible Indebtedness will not be deemed to constitute a Lien.

“Limited Condition Transaction” has the meaning specified in Section 1.02(i).

“LLC Division” means the statutory division of any limited liability company into two or more limited liability companies pursuant to Section 18-217 of the Delaware Limited Liability Company Act or a comparable provision of any other requirement of Law.

“Loan” means an extension of credit by a Lender to the Borrowers under Article II in the form of a Term Loan, an Extended Term Loan, a Revolving Credit Loan, an Extended Revolving Commitment or a Specified Refinancing Revolving Loan.

“Loan Documents” means, collectively, (a) this Agreement, (b) the Notes, (c) the Guaranty, (d) the Collateral Documents, (e) the Intercompany Subordination Agreement, (f) the Intercreditor Agreement, any other Applicable Intercreditor Arrangement or other intercompany agreement required to be entered into pursuant to the terms of this Agreement, (g) any agreement creating or perfecting rights in Cash Collateral pursuant to the provisions of Section 2.16 of this Agreement, (h) any Refinancing Amendment, (i) the Fee Letters, (j) each Borrower Designation Agreement, (k) each Borrower Termination Agreement and (l) any other agreement or document that the Borrower Representative and the Administrative Agent designate as a “Loan Document” in writing.

“Loan Parties” means, collectively, the Borrowers and the Guarantors.

“Majority Lenders” of any Tranche shall mean those Non-Defaulting Lenders which would constitute the Required Lenders under, and as defined in, this Agreement if all outstanding Obligations of the other Tranches under this Agreement were repaid in full and all Commitments with respect thereto were terminated.

“Margin Stock” has the meaning assigned to such term in Regulation U of the FRB as from time to time in effect.

“Material Acquisition” means any Permitted Acquisition by the Parent Borrower or any Restricted Subsidiary following the Closing Date which includes aggregate cash consideration (which cash consideration may include Consolidated Funded Indebtedness assumed in connection with such Permitted Acquisition) in excess of \$500,000,000.

“Material Adverse Effect” means (a) a material adverse effect on the business, assets, property, financial condition or results of operations of the Borrowers and their Restricted Subsidiaries, taken as a whole, (b) a material adverse effect on the ability of the Loan Parties and the Grantors (taken as a whole) to perform their respective payment obligations under the Loan Documents or (c) a material adverse effect on the rights and remedies of the Agents or the Lenders under the Loan Documents (taken as a whole).

“Material Intellectual Property” shall mean all intellectual property owned by or exclusively licensed to, and material to the business of, the Borrower Parties, taken as a whole.

“Material Restricted Subsidiary” means each Restricted Subsidiary which, as of the most recent Test Period of the Parent Borrower, (a) contributed greater than 5.0% of Consolidated EBITDA for such period or (b) contributed greater than 5.0% of Consolidated Total Assets as of such date.

“Maturity Date” means: (a) with respect to the Closing Date Revolving Credit Facility, the earlier of (i) the fifth (5th) anniversary of the Closing Date and (ii) the date of termination in whole of the Revolving Credit Commitments and the agreement to provide Letters of Credit under the Closing Date Revolving Credit Facility pursuant to Section 2.06(a) or 8.02; and (b) with respect to the Initial Term Loans, the earlier of (i) the seventh (7th) anniversary of the Closing Date and (ii) the date that the Initial Term Loans are declared due and payable pursuant to Section 8.02; provided that if such date is not a Business Day, the Maturity Date shall be the next succeeding Business Day; provided, further, that the reference to Maturity Date with respect to (x) Term Loans and Revolving Credit Commitments that are the subject of a loan modification offer pursuant to Section 10.01, (y) Term Loans and Revolving Credit Commitments that are incurred pursuant to Sections 2.14 or 2.18 and (z) Term Loans and Revolving Credit Commitments that are the subject of Extension pursuant to Section 2.22 shall, in each case, be the final maturity date as specified in the loan modification documentation, incremental documentation, or specified refinancing documentation, as applicable thereto.

“Maximum Fixed Repurchase Price” of any Disqualified Stock or Preferred Stock that does not have a fixed repurchase price means that such Maximum Fixed Repurchase Price shall be calculated in accordance with the terms of such Disqualified Stock or Preferred Stock as if such Disqualified Stock or Preferred Stock were purchased on any date on which Consolidated Funded Indebtedness shall be required to be determined pursuant to this Agreement, and if such price is based upon, or measured by, the fair market value of such Disqualified Stock or Preferred Stock, such fair market value shall be determined reasonably and in good faith by the Parent Borrower.

“Maximum Leverage Requirement” means, with respect to (1) any request made in reliance on this definition under Article II for an increase in any Revolving Tranche or any Term Loan Tranche, for a New Revolving Facility, for a New Term Facility or for the incurrence of Incremental Equivalent Debt, (2) any Ratio Debt incurred or issued in reliance on the definition thereof under Section 7.01 or (3) any Indebtedness incurred or issued under clause (g) of the definition of Permitted Debt, the requirement that, on a Pro Forma Basis, after giving effect to the incurrence of any such increase, such New Term Facility or New Revolving Facility or such Incremental Equivalent Debt or such Ratio Debt or Acquisition Ratio Debt (and, in each case, after giving effect to any acquisition consummated concurrently therewith and all other appropriate pro forma adjustment events and calculated as if any increase in any such Indebtedness were fully drawn on the effective date thereof but without giving effect to the cash proceeds of such Indebtedness then being incurred):

- (a) for any such Indebtedness that is secured by the Collateral on a pari passu basis with the Term Loans, the Consolidated First Lien Net Leverage Ratio for such Test Period, calculated on a Pro Forma Basis, does not exceed (x) in the case of Acquisition Ratio Debt, either (i) 3.50:1.00 or (ii) the Consolidated First Lien Net Leverage Ratio immediately prior to the incurrence of such Indebtedness and (y) in other cases, 3.50:1.00;
- (b) for any such Indebtedness that is secured by the Collateral on a junior basis to the Term Loans, the Consolidated Secured Net Leverage Ratio for such Test Period, calculated on a Pro Forma Basis, does not exceed (x) in the case of Acquisition Ratio Debt, either (i) 4.00:1.00 or (ii) the Consolidated Secured Net Leverage Ratio immediately prior to the incurrence of such Indebtedness and (y) in other cases, 4.00:1.00;



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- (c) for any such Indebtedness that is secured solely by assets that do not secure the Term Loans, the Consolidated Total Net Leverage Ratio for such Test Period, calculated on a Pro Forma Basis, does not exceed (x) in the case of Acquisition Ratio Debt, either (i) 4.50:1.00 or (ii) the Consolidated Total Net Leverage Ratio immediately prior to the incurrence of such Indebtedness and (y) in other cases, 4.50:1.00; and
  - (d) for any such Indebtedness that is unsecured, the Consolidated Total Net Leverage Ratio for such Test Period, calculated on a Pro Forma Basis, does not exceed (x) in the case of Acquisition Ratio Debt, either (i) 4.50:1.00 or (ii) the Consolidated Total Net Leverage Ratio immediately prior to the incurrence of such Indebtedness and (y) in other cases, 4.50:1.00.

“Maximum Rate” has the meaning specified in Section 10.10.

“MFN Exceptions” has the meaning specified in Section 2.14(f).

“MFN Provision” has the meaning specified in Section 2.14(f).

“Minimum Extension Condition” has the meaning specified in Section 2.22(g).

“Minimum Tender Condition” has the meaning specified in Section 2.19(b).

“Moody’s” means Moody’s Investors Service, Inc. and any successor to the rating agency business thereof.

“Multiemployer Plan” means a “multiemployer plan” as defined in Section 4001(a)(3) of ERISA, to which any Loan Party or any Grantor or any ERISA Affiliate makes or is obligated to make contributions or has any liability.

“Net Cash Proceeds” means:

- (a) with respect to the Disposition of any asset by the Parent Borrower or any of its Restricted Subsidiaries (other than any Disposition of any Receivables Assets in a Qualified Receivables Factoring or Qualified Receivables Financing) or any Casualty Event, the excess, if any, of (i) the sum of cash and Cash Equivalents received in connection with such Disposition or Casualty Event (including any cash or Cash Equivalents received by way of deferred payment pursuant to, or by monetization of, a note receivable or otherwise, but only as and when so received and, with respect to any Casualty Event, any insurance proceeds or condemnation awards in respect of such Casualty Event received by or paid to or for the account of the Parent Borrower or any of its Restricted Subsidiaries and including any proceeds received as a result of unwinding any related Swap Contract in connection with such related transaction) over (ii) the sum of:
  - (A) the principal amount of any Indebtedness that is secured by a Lien on the asset subject to such Disposition or Casualty Event and that is repaid in connection with such Disposition or Casualty Event (other than (x) Indebtedness under the Loan Documents and (y), if such asset constitutes Collateral, any Indebtedness secured by such asset with a Lien ranking pari passu with or junior to the Liens securing the Obligations), together with any applicable premiums, penalties, interest or breakage costs,

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- (B) the fees and out-of-pocket expenses incurred by the Parent Borrower or such Restricted Subsidiary in connection with such Disposition or Casualty Event (including attorneys' fees, accountants' fees, investment banking fees, survey costs, title insurance premiums, and related search and recording charges, transfer taxes, deed or mortgage recording taxes, other customary expenses and brokerage, consultant and other customary fees actually incurred in connection therewith),
  - (C) all Taxes paid or reasonably estimated to be payable in connection with such Disposition or Casualty Event and any repatriation costs associated with receipt or distribution by the applicable taxpayer of such proceeds,
  - (D) any costs associated with unwinding any related Swap Contract in connection with such transaction,
  - (E) any portion of such proceeds deposited in an escrow account or other appropriate amounts set aside as a reserve for adjustment in respect of (x) the sale price of the property that is the subject of such Disposition established in accordance with GAAP and/or (y) any liabilities associated with such property and retained by the Parent Borrower or any of its Restricted Subsidiaries after such Disposition, including pension and other post-employment benefit liabilities and liabilities related to environmental matters or against any indemnification obligations associated with such transaction, and it being understood that "Net Cash Proceeds" shall include any cash or Cash Equivalents (i) received upon the Disposition of any non-cash consideration received by the Parent Borrower or any of its Restricted Subsidiaries in any such Disposition and (ii) upon the reversal (without the satisfaction of any applicable liabilities in cash in a corresponding amount) of any reserve described in this clause (E),
  - (F) in the case of any Disposition or Casualty Event by a Restricted Subsidiary that is a joint venture or other non-Wholly Owned Restricted Subsidiary, the pro rata portion of the Net Cash Proceeds thereof (calculated without regard to this clause (E)) attributable to the minority interests and not available for distribution to or for the account of the Parent Borrower or a Wholly Owned Restricted Subsidiary as a result thereof;
  - (G) any amounts used to repay or return any customer deposits required to be repaid or returned as a result of any Disposition or Casualty Event; and
  - (H) any payments to be made by the Parent Borrower or any of its Restricted Subsidiaries as agreed between the Parent Borrower or such Restricted Subsidiary and the purchaser of any assets subject to a Disposition or Casualty Event in connection therewith, and
- (b) with respect to the incurrence or issuance of any Indebtedness by the Parent Borrower or any of its Restricted Subsidiaries, the excess, if any, of (i) the sum of the cash received in connection with such incurrence or issuance and in connection with unwinding any related Swap Contract in connection therewith over (ii) the investment banking fees, underwriting discounts and commissions, premiums, expenses, accrued interest and fees related thereto, taxes reasonably estimated to be payable and other out-of-pocket expenses and other customary expenses, incurred by the Parent Borrower or such Restricted Subsidiary in connection with such incurrence or issuance and any costs associated with unwinding any related Swap Contract in connection therewith and, in the case of Indebtedness of any Non-U.S. Subsidiary, deductions in respect of withholding taxes that are or would otherwise be payable in cash if such funds were repatriated to the United States.

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“Net Short Lender” has the meaning specified in Section 10.01.

“New Loan Commitments” has the meaning specified in Section 2.14(a).

“New Revolving Commitment” has the meaning specified in Section 2.14(a).

“New Revolving Facility” has the meaning specified in Section 2.14(a).

“New Revolving Loan” has the meaning specified in Section 2.14(a).

“New Term Commitment” has the meaning specified in Section 2.14(a).

“New Term Facility” has the meaning specified in Section 2.14(a).

“New Term Loan” has the meaning specified in Section 2.14(a).

“Non-Consenting Lender” has the meaning specified in Section 3.08(c).

“Non-Defaulting Lender” means any Lender other than a Defaulting Lender.

“Non-Extending Lender” has the meaning specified in Section 2.22(e).

“Non-Guarantor Debt Sublimit” has the meaning specified in Section 7.01(a).

“Non-Loan Party” means any Subsidiary of the Parent Borrower that is not a Loan Party.

“Non-U.S. Benefit Event” means, with respect to any Non-U.S. Plan, (a) the existence of unfunded liabilities in excess of the amount permitted under any applicable Law, or in excess of the amount that would be permitted absent a waiver from a Governmental Authority, (b) the failure to make the required contributions or payments, under any applicable Law, on or before the due date for such contributions or payments, (c) the receipt of a notice by a Governmental Authority relating to the intention to terminate any such Non-U.S. Plan or to appoint a trustee or similar official to administer any such Non-U.S. Plan, or alleging the insolvency of any such Non-U.S. Plan, (d) the incurrence of any liability by any Loan Party or any of its Subsidiaries under applicable Law on account of the complete or partial termination of such Non-U.S. Plan or the complete or partial withdrawal of any participating employer therein or (e) the occurrence of any transaction that is prohibited under any applicable Law and that would reasonably be expected to result in the incurrence of any liability by any Loan Party or any of its Subsidiaries, or the imposition on any Loan Party or any of its Subsidiaries of, any fine, excise tax or penalty resulting from any noncompliance with any applicable Law.

“Non-U.S. Casualty Event” has the meaning assigned to such term in Section 2.05(b)(viii).

“Non-U.S. Disposition” has the meaning assigned to such term in Section 2.05(b)(viii).

“Non-U.S. Lender” means a Recipient that is not a U.S. Tax Person.

“Non-U.S. Plan” means any pension plan, pension benefit plan, pension fund (including any superannuation fund) or other similar program providing retirement benefits that is established, maintained or contributed to by a Loan Party or any of its Subsidiaries primarily for the benefit of employees employed and residing outside the United States (other than plans, funds or other similar programs that are maintained exclusively by a Governmental Authority), and which plan is not subject to ERISA or the Code.

“Non-U.S. Subsidiary” means any Subsidiary of the Parent Borrower that is not a U.S. Subsidiary.

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“Note” means a Term Note or a Revolving Credit Note, as the context may require.

“NYFRB” means the Federal Reserve Bank of New York.

“NYFRB Rate” means, for any day, the greater of (a) the Federal Funds Rate in effect on such day and (b) the Overnight Bank Funding Rate in effect on such day (or for any day that is not a Business Day, for the immediately preceding Business Day); provided that if none of such rates are published for any day that is a Business Day, the term “NYFRB Rate” means the rate for a federal funds transaction quoted at 11:00 a.m. on such day received by the Administrative Agent from a federal funds broker of recognized standing selected by it; provided, further, that if any of the aforesaid rates as so determined be less than 0%, such rate shall be deemed to be 0% for purposes of this Agreement.

“NYFRB’s Website” means the website of the NYFRB at <http://www.newyorkfed.org>, or any successor source.

“Obligations” means all advances to, and debts, liabilities, obligations, covenants and duties of, any Loan Party or any Grantor arising under any Loan Document or otherwise with respect to any Loan, Letter of Credit, Secured Cash Management Agreement or Secured Hedge Agreement, in each case whether direct or indirect (including those acquired by assumption), absolute or contingent, due or to become due, now existing or hereafter arising and including interest and fees that accrue after the commencement by or against any Loan Party or Grantor of any proceeding under any Debtor Relief Laws naming such Person as the debtor in such proceeding, regardless of whether such interest and fees are allowed claims in such proceeding; provided that (a) obligations of any Loan Party under any Secured Cash Management Agreement or Secured Hedge Agreement shall be secured and guaranteed pursuant to the Collateral Documents only to the extent that, and for so long as, the other Obligations are so secured and guaranteed, (b) any release of Collateral or Guarantors effected in the manner permitted by this Agreement shall not require the consent of holders of obligations under Secured Hedge Agreements or Secured Cash Management Agreements and (c) the Obligations with respect to any Guarantor shall not include Excluded Swap Obligations of such Guarantor. Without limiting the generality of the foregoing, the Obligations of the Loan Parties and the Grantors under the Loan Documents include (a) the obligation to pay principal, interest, Letter of Credit commissions, charges, expenses, fees, indemnities and other amounts payable by any Loan Party under any Loan Document and (b) the obligation of any Loan Party and any Grantor to reimburse any amount in respect of any of the foregoing pursuant to Section 10.04.

“OFAC” has the meaning specified in the definition of “Sanctions Laws and Regulations”.

“OID” means original issue discount.

“Organization Documents” means (a) with respect to any corporation, the certificate or articles of incorporation and the bylaws (or equivalent or comparable constitutive documents with respect to any non-U.S. jurisdiction), (b) with respect to any limited liability company, the certificate or articles of formation or organization and operating or limited liability company agreement (or equivalent or comparable constitutive documents with respect to any non-U.S. jurisdiction) and (c) with respect to any partnership, joint venture, trust or other form of business entity, the partnership, joint venture, trust or other applicable agreement of formation or organization and any agreement, instrument, filing or notice with respect thereto filed in connection with its formation or organization with the applicable Governmental Authority in the jurisdiction of its formation or organization and, if applicable, any certificate or articles of formation or organization of such entity.

“Other Connection Taxes” means, with respect to any Recipient, Taxes imposed as a result of a present or former connection between such Recipient and the jurisdiction imposing such Tax (other than connections arising from such Recipient having executed, delivered, become a party to, performed its obligations under, received payments under, received or perfected a security interest under, engaged in any other transaction pursuant to or enforced any Loan Document, or sold or assigned an interest in any Loan or Loan Document).

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“Other L/C” has the meaning specified in Section 2.03(c)(v).

“Other Taxes” means all present or future stamp, court or documentary, intangible, recording, filing or similar Taxes that arise from any payment made under, from the execution, delivery, performance, enforcement or registration of, from the receipt or perfection of a security interest under, or otherwise with respect to, any Loan Document, except any such Taxes that are imposed with respect to an assignment (other than an assignment made pursuant to Section 3.08).

“Outside Date” has the meaning specified in Section 2.15(b)(iv).

“Outstanding Amount” means: (a) with respect to the Term Loans, Revolving Credit Loans and Specified Refinancing Revolving Loans on any date, the aggregate outstanding principal amount thereof after giving effect to any borrowings and prepayments or repayments of the Term Loans, Revolving Credit Loans (including any refinancing of outstanding unpaid drawings under Letters of Credit or L/C Credit Extensions as a Revolving Credit Borrowing) and Specified Refinancing Revolving Loans, as the case may be, occurring on such date; and (b) with respect to any L/C Obligations with respect to any Tranche on any date, the amount of such L/C Obligations on such date after giving effect to any L/C Credit Extension with respect to such Tranche occurring on such date and any other changes in the aggregate amount of the L/C Obligations with respect to such Tranche as of such date, including as a result of any reimbursements of outstanding unpaid drawings under any Letters of Credit (including any refinancing of outstanding unpaid drawings under Letters of Credit or L/C Credit Extensions as a Revolving Credit Borrowing under such Tranche) or any reductions in the maximum amount available for drawing under Letters of Credit taking effect on such date.

“Overnight Bank Funding Rate” means, for any day, the rate comprised of both overnight federal funds and overnight eurodollar transactions denominated in Dollars by U.S.-managed banking offices of depository institutions, as such composite rate shall be determined by the NYFRB as set forth on the NYFRB’s Website from time to time, and published on the next succeeding Business Day by the NYFRB as an overnight bank funding rate.

“Overnight Rate” means, for any day, the NYFRB Rate.

“Parallel Liability” has the meaning specified in Section 10.26(b).

“Parent Borrower” has the meaning specified in the introductory paragraph to this Agreement.

“Participant” has the meaning specified in Section 10.07(d).

“Participant Register” has the meaning specified in Section 10.07(m).

“Participating Member State” means any member state of the European Union that has the Euro as its lawful currency in accordance with legislation of the European Union relating to Economic and Monetary Union.

“PATRIOT Act” has the meaning specified in Section 10.22.

“Payment Block” means any of the circumstances described in Section 2.05(b)(viii), (ix), and (x).

“PBGC” means the Pension Benefit Guaranty Corporation.

“Pension Funding Rules” means the rules of the Code and ERISA regarding minimum required contributions (including any installment payment thereof) to Plans and set forth in Section 412, 430, 431, 432 and 436 of the Code and Sections 302, 303, 304 and 305 of ERISA.

“Perfection Exceptions” means that no Loan Party or Grantor shall be required to (a) enter into control agreements, lock box or similar arrangement with respect to, or otherwise perfect any security interest by “control” (or similar arrangements) over commodities accounts, securities accounts, deposit accounts, other bank accounts, cash and cash equivalents or any other assets (other than delivery of original stock certificates, associated stock powers, control over uncertificated subsidiary stock (at the reasonable request of the Collateral Agent) and pledged promissory notes, in each case, required for perfection under the applicable Law and subject to the Intercreditor Agreement and clause (d)(iii) below), (b) perfect the security interest in the following other than by the filing of a general “all asset” UCC financing statement or analogous filing in the jurisdiction of the applicable Loan Party: (i) letter-of-credit rights (as defined in the UCC), (ii) commercial tort claims (as defined in the UCC), (iii) Fixtures (as defined in the UCC) and (iv) Assigned Agreements (as defined in the U.S. Security Agreement), (c) send notices to account debtors or other contractual third-parties unless an Event of Default has not been cured or waived and is continuing and the Administrative Agent has exercised its acceleration rights pursuant to Section 8.02 of this Agreement, (d) perfect security interests in the Collateral located in the U.S. other than by (i) filing of general “all asset” UCC financing statements, (ii) filings in (A) the United States Patent and Trademark Office with respect to any material U.S. registered patents and trademarks and material U.S. trademark applications and (B) the United States Copyright Office of the Library of Congress with respect to material copyright registrations, in the case of each of (A) and (B), owned by a Loan Party and constituting Collateral, (iii) delivering to the Collateral Agent (or a bailee or other agent of the Collateral Agent) to be held in its possession all of the Collateral consisting of (A) certificates representing Capital Stock required to be pledged pursuant to the Collateral Documents and (B) promissory notes and other instruments constituting Collateral (provided that promissory notes and instruments having an aggregate principal amount less than \$25,000,000 or to the extent included in the Global Intercompany Note need not be delivered to the Collateral Agent), and (iv) at the reasonable request of the Collateral Agent, providing control over uncertificated Capital Stock required to be pledged pursuant to the Collateral Documents; provided that no other perfection by “control” will be required, (e) enter into any security documents to be governed by the law of any jurisdiction in which assets are located other than the jurisdiction of organization of the applicable Loan Party granting such lien (excluding in each case, subject to the Agreed Security Principles (with respect to any Loan Party that is a Non-U.S. Subsidiary and any Korean Subsidiary only), the pledge of Equity Interests of any Loan Party organized in Japan or any Korean Subsidiary, which shall be governed by the law of Japan or Korea, as applicable), (f) deliver any mortgage, landlord waiver, estoppel or collateral access letter or (g) take any action in any jurisdiction that is not a Covered Jurisdiction (or, with respect to intellectual property, the United States) to create any security interest in assets located or titled outside of a Covered Jurisdiction (or, with respect to intellectual property, the United States), including any intellectual property registered in any jurisdiction that is not the United States, or perfect any security interest in such assets or enter into any security agreements or pledge agreements governed by the laws of any jurisdiction that is not a Covered Jurisdiction (or, with respect to intellectual property, the United States).

“Perfection Requirements” means the making of appropriate registrations, filings, endorsements, notarizations, stamping and/or notifications of the Collateral Documents and/or the Collateral created thereunder; provided that, in respect of the Borrowers or Grantors or any Guarantor listed on Schedule 1.01(b) or contemplated to be delivered pursuant to Section 4.01 or Schedule 6.16, such Perfection Requirements shall be limited to the extent set forth as a perfection requirement with respect to the applicable Loan Party or Grantor in any legal opinion delivered in connection with the accession of such Persons.

“Permitted Acquisition” has the meaning specified in the definition of “Permitted Investments”.

“Permitted Asset Swap” means the purchase and sale or exchange of Related Business Assets or a combination of Related Business Assets and cash or Cash Equivalents between the Parent Borrower or any of its Restricted Subsidiaries and another Person; provided that such purchase and sale or exchange must occur within ninety (90) days of each other and any cash or Cash Equivalents received must be applied in accordance with Section 7.04.

“Permitted Bond Hedge Transaction” means any call or capped call option (or substantively equivalent derivative transaction) on the Parent Borrower’s common stock purchased by the Parent Borrower in connection with the issuance of any Convertible Indebtedness; provided that the purchase price for such Permitted Bond Hedge Transaction, less the proceeds received by the Parent Borrower from the sale of any related Permitted Warrant Transaction, does not exceed the net proceeds received by the Parent Borrower from the sale of such Convertible Indebtedness issued in connection with the Permitted Bond Hedge Transaction.

“Permitted Debt” has the meaning specified in Section 7.01.

“Permitted Debt Exchange” has the meaning specified in Section 2.19(a).

“Permitted Debt Exchange Notes” means Indebtedness in the form of unsecured, first lien, second lien or other junior lien notes, in each case Incurred by the Loan Parties; provided that such Indebtedness (a) satisfies the Permitted Other Debt Conditions, (b) is subject to terms and conditions (other than pricing (including, for the avoidance of doubt, any “most favored nation” pricing provision), interest rate margins, rate floors, discounts, fees, premiums, prepayment premiums and optional prepayment and optional redemption terms) are, taken as a whole, not materially more favorable to the creditors providing such Permitted Debt Exchange Notes than those contained in the Loan Documents (taken as a whole) (as reasonably determined by the Borrower Representative in good faith) unless such provisions shall be customary for similar debt securities in light of then-prevailing market terms and conditions (taken as a whole) at the time of issuance (as reasonably determined by the Borrower Representative in good faith) (provided that, at the Parent Borrower’s option, delivery of a certificate of a Responsible Officer of the Parent Borrower to the Administrative Agent in good faith at least three (3) Business Days (or such shorter period as may be agreed by the Administrative Agent) prior to the incurrence of such Indebtedness, together with a reasonably detailed description of the material terms and conditions of such Permitted Debt Exchange Notes or drafts of the documentation relating thereto, stating that the Parent Borrower has determined in good faith that such terms and conditions satisfy the requirement set forth in this clause (b), shall be conclusive evidence that such terms and conditions satisfy such requirement unless the Administrative Agent provides notice to the Parent Borrower of its objection during such three (3) Business Day period (including a reasonable description of the basis upon which it objects)), (c) does not have obligors other than the Loan Parties or entities who shall have become Loan Parties concurrently with the incurrence of such Permitted Debt Exchange Notes (or such other arrangements satisfactory to the Administrative Agent) (it being understood that the roles of such obligors as Borrowers or guarantors with respect to such obligations may be interchanged), and (d) to the extent secured, is not secured by property other than the Collateral and the Liens securing such Indebtedness shall be subject to Applicable Intercreditor Arrangements and the security agreements governing such Liens shall be substantially the same as of the Collateral Documents (with such differences as are reasonably acceptable to the Administrative Agent); provided, however, that such Permitted Debt Exchange Notes may provide for any additional or different financial or other covenants or other provisions that (1) are agreed among the issuers and the creditors thereof and applicable only during periods after the then Latest Maturity Date in effect at the time of incurrence or issuance of such Permitted Debt Exchange Notes or (2) are incorporated into this Agreement (or any other applicable Loan Document) for the benefit of all existing Lenders (to the extent applicable to such Lender) by an amendment to this Agreement (which may be accomplished without further Lender voting requirements).

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“Permitted Debt Exchange Offer” has the meaning specified in Section 2.19(a).

“Permitted Investments” means:

- (1) any Investment in cash (including deposit and other accounts) and Cash Equivalents or Investment Grade Securities and Investments that were Cash Equivalents or Investment Grade Securities when made;
- (2) any Investment in any Borrower or any Restricted Subsidiary; provided that (i) in the case of any Investment under this clause (2) by a Loan Party in a Restricted Subsidiary which is not a Loan Party made after the Closing Date, the aggregate amount of such Investment together with other Investments made pursuant to this clause (2), together with the aggregate Fair Market Value of Dispositions and exclusive licenses made pursuant to the proviso to clause (e) of the definition of “Asset Sales”, shall not exceed the greater of (x) \$975,000,000 and (y) 75% of the EBITDA Grower Amount at the time made (excluding any intercompany accounts payable and receivable (excluding, for the avoidance of doubt, funded Indebtedness for borrowed money), guarantee fees and transfer pricing arrangements);
- (3) any Investment by Subsidiaries that are not Restricted Subsidiaries in other Subsidiaries that are not Restricted Subsidiaries;
- (4) [reserved];
- (5) any Investment in securities or other assets received in connection with an Asset Sale made pursuant to Section 7.04, any other Disposition of assets not constituting an Asset Sale or any Casualty Event;
- (6) any Investment (x) existing on the Closing Date and, for any Investment with an individual amount in excess of \$15,000,000, listed on Schedule 7.05, (y) made pursuant to binding commitments in effect on the Closing Date and, to the extent such Investment would have an individual amount in excess of \$15,000,000, listed on Schedule 7.05 or (z) that replaces, refinances, refunds, renews, modifies, amends or extends any Investment described under either of the immediately preceding clauses (x) or (y); provided that any such Investment is in an amount that does not exceed the amount replaced, refinanced, refunded, renewed, modified, amended or extended, except as contemplated pursuant to the terms of such Investment in existence on the Closing Date or as otherwise permitted under this definition or otherwise under Section 7.05;
- (7) loans and advances to, or guarantees of Indebtedness of, employees, directors, officers, managers, consultants or independent contractors in an aggregate amount, taken together with all other Investments made pursuant to this clause (7) that are at the time outstanding, not in excess of the greater of (x) \$40,000,000 and (y) 3% of the EBITDA Grower Amount outstanding at any one time in the aggregate;
- (8) loans and advances to officers, directors, employees, managers, consultants and independent contractors for business-related travel and entertainment expenses, moving and relocation expenses and other similar expenses, in each case in the ordinary course of business;



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- (9) any Investment (x) acquired by any Borrower or any of its Restricted Subsidiaries (a) in exchange for any other Investment or accounts receivable held by any Borrower or any such Restricted Subsidiary in connection with or as a result of a bankruptcy, workout, reorganization or recapitalization of any Borrower or any such Restricted Subsidiary of such other Investment or accounts receivable, or (b) as a result of a foreclosure or other remedial action by any Borrower or any of its Restricted Subsidiaries with respect to any Investment or other transfer of title with respect to any Investment in default and (y) received in compromise or resolution of (A) obligations of trade creditors or customers that were incurred in the ordinary course of business of any Borrower or any Restricted Subsidiary, including pursuant to any plan of reorganization or similar arrangement upon the bankruptcy or insolvency of any trade creditor or customer, or (B) litigation, arbitration or other disputes;
- (10) (A) Swap Contracts and cash management services permitted under clauses (j) or (w) of the definition of “Permitted Debt”, including payments in connection with the termination thereof and (B) any Permitted Bond Hedge Transaction and Permitted Warrant Transactions, including any payments in connection therewith;
- (11) any Investment by any Borrower or any of its Restricted Subsidiaries in a Similar Business (other than an Investment in an Unrestricted Subsidiary) in an aggregate amount, taken together with all other Investments made pursuant to this clause (11) that are at the time outstanding, not to exceed the greater of (x) \$360,000,000 and (y) 27.5% of the EBITDA Grower Amount; provided, however, that if any Investment pursuant to this clause (11) is made in any Person that is not a Restricted Subsidiary at the date of the making of such Investment and such Person becomes a Restricted Subsidiary after such date, such Investment shall thereafter be deemed to have been made pursuant to clause (2) above and shall cease to have been made pursuant to this clause (11) (to the extent that such Investment would be permitted under clause (2) at the time of such reclassification) for so long as such Person continues to be a Restricted Subsidiary; provided, further, that the aggregate amount of consideration paid by the Parent Borrower or any Restricted Subsidiary for all Investments pursuant to this clause (11) in Restricted Subsidiaries that do not become Loan Parties, together with any Permitted Acquisitions of Restricted Subsidiaries that do not become Loan Parties under clause (36), shall not exceed the greater of (x) \$975,000,000 and (y) 75% of the EBITDA Grower Amount;
- (12) additional Investments by any Borrower or any of its Restricted Subsidiaries in an aggregate amount, taken together with all other Investments made pursuant to this clause (12) that are at the time outstanding, not to exceed the greater of (x) \$650,000,000 and (y) 50% of the EBITDA Grower Amount; provided, however, that if any Investment pursuant to this clause (12) is made in any Person that is not a Restricted Subsidiary at the date of the making of such Investment and such Person becomes a Restricted Subsidiary after such date, such Investment shall thereafter be deemed to have been made pursuant to clause (2) above and shall cease to have been made pursuant to this clause (12) (to the extent that such Investment would be permitted under clause (2) at the time of such reclassification) for so long as such Person continues to be a Restricted Subsidiary;
- (13) any transaction to the extent it constitutes an Investment that is permitted and made in accordance with the provisions of Section 7.11(b) (except transactions described in clause (i), (ii), (iii), (iv), (viii), (ix), (xiii), (xiv), (xv), (xx), (xxii) or (xxvi) of such Section 7.11(b));

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- (14) Investments the payment for which consists of Equity Interests (other than Excluded Equity) of the Parent Borrower; provided, however, that such Equity Interests will not increase the Available Amount;
  - (15) Investments consisting of the leasing, licensing, sublicensing or contribution of intellectual property in the ordinary course of business or pursuant to joint marketing arrangements with other Persons;
  - (16) Investments consisting of purchases or acquisitions of inventory, supplies, materials and equipment or purchases, acquisitions, licenses, sublicenses or leases or subleases of intellectual property, or other rights or assets, in each case in the ordinary course of business;
  - (17) any Investment in a Receivables Subsidiary or any Investment by a Receivables Subsidiary in any other Person in connection with a Qualified Receivables Financing, including Investments of funds held in accounts permitted or required by the arrangements governing such Qualified Receivables Financing or any related Indebtedness;
  - (18) Investments consisting of (v) Liens permitted under Section 7.02, (w) Indebtedness (including guarantees) permitted under Section 7.01, other than Indebtedness among the Borrower Parties, (x) mergers, amalgamations, consolidations and transfers of all or substantially all assets permitted under Section 7.03, (y) Asset Sales permitted under Section 7.04 and Dispositions that do not constitute Asset Sales, or (z) Restricted Payments permitted under Section 7.05;
  - (19) repurchases of debt securities of any Borrower Party;
  - (20) guarantees permitted to be incurred under Section 7.01 and Obligations relating to such Indebtedness and guarantees (other than guarantees of Indebtedness) in the ordinary course of business; provided that guarantees by Loan Parties of Indebtedness of Subsidiaries that are not Loan Parties shall not be permitted under this clause (20);
  - (21) advances, loans or extensions of trade credit and other Investments by any Borrower or any of the Restricted Subsidiaries, including in respect of advances to customers or suppliers, prepaid expenses, negotiable instruments held for collection or lease, utility, workers' compensation, performance and other similar deposits provided to third parties in the ordinary course of business, in each case in the ordinary course of business;
  - (22) Investments consisting of purchases and acquisitions of services in the ordinary course of business;
  - (23) Investments in the ordinary course of business consisting of Uniform Commercial Code Article 3 endorsements for collection or deposit and Uniform Commercial Code Article 4 customary trade arrangements with customers;
  - (24) Investments arising from the consummation of customary buy/sell arrangements between the joint venture parties set forth in joint venture arrangements and similar binding arrangements;
  - (25) Investments in joint ventures of the Parent Borrower and its Restricted Subsidiaries and acquisitions of Equity Interests in a Person that does not become a Subsidiary of the Parent Borrower in an aggregate amount, taken together with all other Investments made pursuant

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to this clause (25) that are at the time outstanding, not to exceed the greater of (x) \$260,000,000 and (y) 20% of the EBITDA Grower Amount; provided that the Investments permitted pursuant to this clause (25) may, at the Borrowers' option, be increased by the amount of JV Distributions, without duplication of dividends or distributions increasing the Available Amount;

- (26) the Transactions and any other Investments made in connection with the consummation of the Transactions;
- (27) accounts receivable, security deposits and prepayments and other credits granted or made in the ordinary course of business and any Investments received in satisfaction or partial satisfaction thereof from financially troubled account debtors and others, including in connection with the bankruptcy or reorganization of, or settlement of delinquent accounts and disputes with or judgments against, such account debtors and others, in each case in the ordinary course of business;
- (28) Investments acquired as a result of a foreclosure by any Borrower or any Restricted Subsidiary with respect to any secured Investments or other transfer of title with respect to any secured Investment in default;
- (29) Investments resulting from pledges and deposits that are Permitted Liens;
- (30) acquisitions of obligations of one or more officers or other employees of the Parent Borrower or any Subsidiary of the Parent Borrower in connection with such officer's or employee's acquisition of Equity Interests of the Parent Borrower, so long as no cash is actually advanced by the Parent Borrower or any Restricted Subsidiary to such officers or employees in connection with the acquisition of any such obligations;
- (31) guarantees of operating leases (for the avoidance of doubt, excluding Capitalized Lease Obligations) or of other obligations that do not constitute Indebtedness, in each case, entered into by any Borrower or any Restricted Subsidiary in the ordinary course of business;
- (32) Investments consisting of the redemption, purchase, repurchase or retirement of any Equity Interests permitted by Section 7.05;
- (33) Permitted Restructuring Transactions;
- (34) Investments made pursuant to obligations entered into when the Investment would have been permitted hereunder so long as such Investment when made reduces the amount available under the clause under which the Investment would have been permitted;
- (35) Investments made in the ordinary course of business in connection with obtaining, maintaining or renewing client and customer contracts and loans or advances made to, and guarantees with respect to obligations of, distributors, suppliers, licensors and licensees in the ordinary course of business;
- (36) any Investment in a Person (including the purchase or other acquisition of all or substantially all of the assets or business of, any Person or of assets constituting a business unit, a line of business, product line or division of such Person, or more than 50% of the Equity Interests in a Person) if as a result of such Investment, (a) such Person becomes a Restricted Subsidiary, (b) such Person, in one transaction or a series of related transactions,

is merged, consolidated or amalgamated with or into, or transfers or conveys all or substantially all of its assets or business to, or is liquidated into, a Borrower or a Restricted Subsidiary or (c) such Person, in one transaction or a series of related transactions, transfers or conveys its assets constituting a business unit, a line of business, product line or division to a Borrower or a Restricted Subsidiary (each, a "Permitted Acquisition"); provided that, with respect to each purchase or other acquisition made pursuant to this clause (36), (A) after giving effect to any such Permitted Acquisition and any incurrence of Indebtedness in connection therewith, (x) no Event of Default under Section 8.01(a), or (in each case, solely with respect to the Borrowers) Section 8.01(f) or (g) shall have occurred and be continuing and (y) if applicable, the Parent Borrower shall be in Pro Forma Covenant Compliance (subject to Section 1.02(i)) in respect of a Limited Condition Transaction) and (B) any Person or assets or business as acquired in accordance herewith shall be in the same business or lines of business or reasonably related, ancillary or complementary businesses (including related, complementary, synergistic or ancillary technologies) in which the Borrowers and/or their Restricted Subsidiaries are then engaged; provided, further, that the aggregate amount of consideration paid by the Parent Borrower or any Restricted Subsidiary for all Permitted Acquisitions of Restricted Subsidiaries that do not become Loan Parties, together with Investments in Restricted Subsidiaries that do not become Loan Parties under clause (11), shall not exceed the greater of (x) \$975,000,000 and (y) 75% of the EBITDA Grower Amount; and

- (37) so long as no Event of Default under Section 8.01(a), or (in each case, solely with respect to the Borrowers) Section 8.01(f) or (g), shall have occurred and be continuing, Investments in an unlimited amount if the Consolidated Total Net Leverage Ratio at the time of determination based on the most recently ended Test Period, on a Pro Forma Basis, would be less than or equal to 3.50:1.00.

"Permitted Joint Venture" means, with respect to any specified Person, a joint venture in any other Person engaged in a Similar Business in respect of which the Parent Borrower or a Restricted Subsidiary beneficially owns at least 35% of the shares of Equity Interests of such Person.

"Permitted Liens" means, with respect to any Person:

- (1) Liens (including pledges and deposits) Incurred (i) in connection with workers' compensation, employment, unemployment insurance and other social security laws or regulations or similar legislation, (ii) in connection with bids, tenders, contracts (other than for the payment of Indebtedness) or leases to which such Person is a party, (iii) to secure public, statutory or regulatory obligations of such Person or to secure performance, surety, stay, customs or appeal bonds and other obligations of a like nature to which such Person is a party, (iv) as security for contested taxes or import duties or for the payment of rent or (v) in respect of letters of credit, bank guarantees or similar instruments issued for the account of such Person in the ordinary course of business supporting obligations of the type set forth in clauses (i) through (iv) above, in each case Incurred in the ordinary course of business;
- (2) Liens imposed by law, such as carriers', warehousemen's, landlords', materialmen's, repairman's, construction contractors', mechanics', suppliers' or other like Liens, in each case for sums not yet overdue by more than sixty (60) days or being contested in good faith by appropriate proceedings or other Liens arising out of judgments or awards against such Person with respect to which such Person shall then be proceeding with an appeal or other proceedings for review (or which, if due and payable, are being contested in good faith by appropriate proceedings and for which adequate reserves are being maintained, to the extent required by GAAP) or with respect to which the failure to make payment would not reasonably be expected to have a Material Adverse Effect as determined in good faith by management of any Borrower;

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- (3) Liens for Taxes (i) which are not yet overdue for thirty (30) days or not yet due and payable, (ii) which are being contested in good faith by appropriate proceedings and for which adequate reserves are being maintained to the extent required by GAAP (or, with respect to any Non-U.S. Subsidiary, in conformity with generally accepted accounting principles that are applicable in its respective jurisdiction of organization), or for property taxes on property such Person or one of its Subsidiaries has determined to abandon if the sole recourse for such tax, assessment, charge, levy or claim is to such property or (iii) with respect to which the failure to make payment would not reasonably be expected to have a Material Adverse Effect as determined in good faith by the Parent Borrower;
- (4) Liens in favor of the issuers of performance and surety bonds, bids, indemnities, trade contracts, warranties, releases, appeals or similar bonds or with respect to regulatory requirements or letters of credit or bankers' acceptances issued and completion of guarantees provided for, in each case, pursuant to the request of and for the account of such Person in the ordinary course of its business;
- (5) survey exceptions, encumbrances, ground leases, easements or reservations of, or rights of others for, licenses, rights-of-way, servitudes, sewers, electric lines, drains, telegraph and telephone and cable television lines, gas and oil pipelines and other similar purposes, reservation of rights or zoning, building codes or other restrictions (including defects or irregularities in title and similar encumbrances) as to the use of real properties or Liens incidental to the conduct of the business of such Person or to the ownership of its properties which do not in the aggregate materially adversely interfere with the ordinary conduct of the business of such Person;
- (6) Liens Incurred to secure obligations in respect of Indebtedness permitted to be Incurred pursuant to Section 7.01(a) and clauses (a), (b), (d), (h), (l) or (o) of the definition of "Permitted Debt" and obligations secured ratably thereunder; provided that, (i) in the case of clauses (b) and (d) of the definition of "Permitted Debt", such Lien extends only to the assets subject to such Sale/Leaseback Transactions or the assets and/or Capital Stock the acquisition, lease, construction, repair, replacement or improvement of which is financed thereby and any replacements, additions and accessions thereto, any income or profits thereof and any proceeds from the disposition thereof; provided, further, that individual financings provided by a lender may be cross-collateralized to other financings provided by such lender or its affiliates and (ii) in the case of Section 7.01(a) and clauses (a) (other than Indebtedness incurred under the Loan Documents), (l) and (o) of the definition of "Permitted Debt", except with respect to Indebtedness incurred by Non-Loan Parties or Indebtedness secured by assets not constituting Collateral, such Liens shall be pari passu with, or junior to, the Liens securing the Obligations, in each case as expressly permitted under such clauses (or Incurred under clause (l) of the definition of "Permitted Debt"), and the holders of such Liens and related Indebtedness shall have executed and delivered the Applicable Intercreditor Arrangements;

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- (7) Liens of any the Parent Borrower or any Restricted Subsidiary existing on the Closing Date and, to the extent securing Indebtedness with an individual principal amount in excess of \$15,000,000, listed on Schedule 7.02 and any modifications, replacements, renewals or extensions thereof; provided that (i) the Lien does not extend to any additional property other than (A) after-acquired property that is affixed or incorporated into the property covered by such Lien or (B) proceeds and products thereof; provided that individual financings provided by a lender may be cross collateralized to other financings provided by such lender or its affiliates and (ii) the modification, replacement, renewal, extension or refinancing of the obligations secured or benefited by such Liens (if such obligations constitute Permitted Debt);
- (8) Liens on assets of, or Equity Interests in, a Person at the time such Person becomes a Subsidiary; provided, however, that such Liens are not created or Incurred in connection with, or in contemplation of, such other Person becoming such a Subsidiary; provided, further, that such Liens are limited to all or a portion of the assets (and improvements on such assets) that secured (or, under the written arrangements under which the Liens arose, would secure) the obligations to which such Liens relate; provided, further, that for purposes of this clause (8), if a Person becomes a Subsidiary, any Subsidiary of such Person shall be deemed to become a Subsidiary of the Borrowers, and any property or assets of such Person or any Subsidiary of such Person shall be deemed acquired by the Borrowers at the time of such merger, amalgamation or consolidation;
- (9) Liens on assets at the time any Borrower or any Restricted Subsidiary acquired the assets, including any acquisition by means of a merger, amalgamation or consolidation with or into such Borrower or such Restricted Subsidiary; provided, however, that such Liens are not created or Incurred in connection with, or in contemplation of, such acquisition; provided, further, that such Liens are limited to all or a portion of the property or assets (and improvements on such property or assets) that secured (or, under the written arrangements under which the Liens arose, would secure) the obligations to which such Liens relate; provided, further, that for purposes of this clause (9), if, in connection with an acquisition by means of a merger, amalgamation or consolidation with or into any Borrower or any Restricted Subsidiary, a Person other than a Borrower or Restricted Subsidiary is the successor company with respect thereto, any Subsidiary of such Person shall be deemed to become a Subsidiary of such Borrower or such Restricted Subsidiary, as applicable, and any property or assets of such Person or any such Subsidiary of such Person shall be deemed acquired by such Borrower or such Restricted Subsidiary, as the case may be, at the time of such merger, amalgamation or consolidation;
- (10) Liens securing Indebtedness or other obligations of a Borrower or a Restricted Subsidiary owing to a Borrower or a Restricted Subsidiary permitted to be Incurred in accordance with Section 7.01;
- (11) Liens securing Swap Contracts Incurred in accordance with Section 7.01;
- (12) Liens on specific items of inventory or other goods and proceeds of any Person securing such Person's obligations in respect of bankers' acceptances or letters of credit entered into in the ordinary course of business issued or created for the account of such Person to facilitate the purchase, shipment or storage of such inventory or other goods;
- (13) leases, subleases, licenses, sublicenses, occupancy agreements or assignments of or in respect of real or personal property, including (i) any interest or title of a lessor under any lease or sublease entered into by the Parent Borrower or any Restricted Subsidiary in the ordinary course of business and other statutory and common law landlords' liens under leases, (ii) any interest or title of a licensor under any license or sublicense entered into by the Parent Borrower or any Restricted Subsidiary as a licensee or sublicensee existing on the Closing Date or in the ordinary course of its business and (iii) assignments of insurance or condemnation proceeds relating to any property provided to landlords (or their mortgagees) pursuant to the terms of any lease of such property;

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- (14) Liens arising from Uniform Commercial Code financing statements or similar filings made in respect of operating leases or consignments entered into by the Parent Borrower or any of its Restricted Subsidiaries;
  - (15) Liens in favor of any Borrower or any Subsidiary Guarantor;
  - (16) (i) Liens on Receivables Assets and related assets, or created in respect of bank accounts into which only the collections in respect of Receivables Assets have been, sold, conveyed, assigned or otherwise transferred or purported to be so sold, conveyed, assigned or otherwise transferred in connection with a Qualified Receivables Factoring and/or Qualified Receivables Financing and (ii) Liens securing Indebtedness or other obligations of any Receivables Subsidiary;
  - (17) deposits made or other security provided in the ordinary course of business to secure liability to insurance carriers or under self-insurance arrangements in respect of such obligations;
  - (18) Liens on the Equity Interests of Unrestricted Subsidiaries;
  - (19) grants of intellectual property, software and other technology rights and licenses, including licensing, sublicensing or cross-licensing of any intellectual property rights of the Parent Borrower or any Subsidiary in connection with the consummation of the Spin-off Transactions;
  - (20) judgment and attachment Liens not giving rise to an Event of Default pursuant to Section 8.01(f), (g) or (h) and notices of lis pendens and associated rights related to litigation being contested in good faith by appropriate proceedings and for which adequate reserves have been made;
  - (21) Liens arising out of conditional sale, title retention, consignment or similar arrangements for the sale of goods entered into in the ordinary course of business;
  - (22) Liens Incurred to secure Cash Management Services and other “bank products” (including those described in clauses (j) and (w) of the definition of “Permitted Debt”);
  - (23) Liens to secure any refinancing, refunding, extension, renewal or replacement (or successive refinancings, refundings, extensions, renewals or replacements) as a whole, or in part, of any Indebtedness secured by any Lien referred to in the foregoing clauses (7), (8), (9) or (11) or succeeding clause (49) of this definition; provided, however, that (x) such new Lien shall be limited to all or part of the same property that secured (or, under the written arrangements under which the original Lien arose, would secure) the original Lien (*plus* any replacements, additions, accessions and improvements on such property), (y) the Indebtedness secured by such Lien at such time is not increased to any amount greater than the sum of (i) the outstanding principal amount or, if greater, committed amount of the Indebtedness described under clauses (7), (8), (9), (11) or (49) of this definition at the time the original Lien became a Permitted Lien, and (ii) an amount necessary to pay any Refinancing Expenses, related to such refinancing, refunding, extension, renewal or replacement and (z) any amounts Incurred under this clause (23) as refinancing indebtedness of clause (49) of this definition shall reduce the amount available under such clause (49);

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- (24) Liens on the assets and equity interests of Restricted Subsidiaries that are Non-U.S. Subsidiaries (other than Equity Interests in Korean Subsidiaries pledged as Collateral) and are not Loan Parties that secure only Indebtedness or other obligations of such Restricted Subsidiaries permitted hereunder;
- (25) Liens securing the Senior Secured Notes and any Permitted Refinancing thereof;
- (26) Liens on the Equity Interests or assets of a joint venture to secure Indebtedness of such joint venture Incurred pursuant to clause (u) of the definition of "Permitted Debt";
- (27) Liens on equipment of any Borrower Party granted in the ordinary course of business to such Borrower Party's client at which such equipment is located;
- (28) [reserved];
- (29) Liens (i) on property or assets used to redeem, repay, defease or to satisfy and discharge Indebtedness; provided that such redemption, repayment, defeasance or satisfaction and discharge is not prohibited by this Agreement and that such deposit shall be deemed for purposes of Section 7.05 (to the extent applicable) to be a prepayment of such Indebtedness; and (ii) in favor of a trustee or agent in an indenture or credit facility relating to any Indebtedness to the extent such Liens secure only customary compensation and reimbursement obligations of such trustee or agent;
- (30) Liens in favor of customs and revenue authorities arising as a matter of law to secure payment of customs duties in connection with the importation and exportation of goods in the ordinary course of business;
- (31) Liens (i) of a collection bank arising under Section 4-210 of the Uniform Commercial Code, or any comparable or successor provision (or other applicable Law), on items in the course of collection; (ii) attaching to any cash pooling arrangements, commodity trading accounts or other commodity brokerage accounts Incurred in the ordinary course of business; and (iii) in favor of banking or other financial institutions or entities, or electronic payment service providers, arising as a matter of law encumbering deposits (including the right of set-off) and which are within the general parameters customary in the banking or finance industry;
- (32) Liens that are contractual rights of set-off (i) relating to the establishment of depository relations with banks or other Persons not given in connection with the issuance of Indebtedness; (ii) relating to pooled deposit or sweep accounts of any Borrower Party to permit satisfaction of overdraft or similar obligations Incurred in the ordinary course of business of the Borrower Parties; or (iii) relating to purchase orders and other agreements entered into with customers of any Borrower Party in the ordinary course of business;
- (33) any encumbrance or restriction (including put and call arrangements) with respect to Equity Interests of any joint venture or similar arrangement pursuant to any joint venture or similar agreement;
- (34) Liens on insurance policies and the proceeds thereof securing Indebtedness permitted by clauses (s)(x) and (y) of the definition of "Permitted Debt";



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- (35) Liens on vehicles or equipment of any Borrower Party granted in the ordinary course of business;
  - (36) Liens on assets of Non-Loan Parties (other than Equity Interests in a Korean Subsidiary pledged as Collateral) securing Indebtedness Incurred in accordance with clause (t) of the definition of “Permitted Debt”;
  - (37) Liens disclosed by the title insurance policies delivered on or subsequent to the Closing Date and any replacement, extension or renewal of any such Liens (so long as the Indebtedness and other obligations secured by such replacement, extension or renewal Liens are permitted by this Agreement); provided that such replacement, extension or renewal Liens do not cover any property other than the property that was subject to such Liens prior to such replacement, extension or renewal;
  - (38) Liens arising solely by virtue of any statutory or common law provision or customary business provision relating to banker’s liens, rights of set-off or similar rights;
  - (39) (i) Liens solely on any earnest money deposits of cash or Cash Equivalents made, or escrow or similar arrangements entered into, by any Borrower or any Restricted Subsidiary in connection with any letter of intent or other agreement in respect of any Permitted Investment or other acquisitions, Dispositions or transactions not prohibited hereunder, (ii) Liens on advances of cash or Cash Equivalents in favor of the seller of any property to be acquired in a Permitted Investment or other acquisition, Disposition or transaction not prohibited hereunder to be applied against the purchase price for such Investment and (iii) Liens on cash collateral or other deposits in respect of letters of credit entered into in the ordinary course of business;
  - (40) the prior rights of consignees and their lenders under consignment arrangements entered into in the ordinary course of business;
  - (41) Liens on securities that are the subject of repurchase agreements in connection with Permitted Investments or other acquisitions, Dispositions or transactions not prohibited hereunder;
  - (42) Liens encumbering reasonable customary initial deposits and margin deposits and similar Liens attaching to commodity trading accounts or other brokerage accounts Incurred in the ordinary course of business and not for speculative purposes;
  - (43) rights reserved or vested in any Person by the terms of any lease, license, franchise, grant or permit held by the Parent Borrower or any of its Restricted Subsidiaries or by a statutory provision, to terminate any such lease, license, franchise, grant or permit, or to require annual or periodic payments as a condition to the continuance thereof;
  - (44) restrictive covenants affecting the use to which real property may be put; provided that such covenants are complied with;
  - (45) security given to a public utility or any municipality or governmental authority when required by such utility or authority in connection with the operations of that Person in the ordinary course of business;
  - (46) zoning by-laws and other land use restrictions, including site plan agreements, development agreements and contract zoning agreements;

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- (47) Liens created pursuant to the general conditions of a bank operating in The Netherlands based on the general conditions drawn up by the Netherlands Bankers' Association (*Nederlandse Vereniging van Banken*) and the Consumers Union (*Consumentenbond*) or pursuant to any other general conditions of, or any contractual arrangement with, any such bank to substantially the same effect;
  - (48) Liens on cash proceeds of Indebtedness (and on the related escrow accounts) in connection with the issuance of such Indebtedness into (and pending the release from) a customary escrow arrangement, to the extent such Indebtedness is Incurred in compliance with Section 7.01;
  - (49) for purposes of cash management arrangements among the Borrower Parties, Liens Incurred to secure back-to-back reimbursement obligations for working capital enhancement or other similar arrangements, the aggregate principal amount of which obligations or arrangements do not exceed the greater of (i) \$360,000,000 and (ii) 27.5% of the EBITDA Grower Amount at any one time outstanding;
  - (50) Liens on property securing obligations issued or incurred under (i) any Refinancing Notes and the Refinancing Notes Indentures related thereto, and (ii) any Incremental Equivalent Debt and the Incremental Equivalent Debt Documents related thereto and, in each case, any Permitted Refinancings thereof (or successive Permitted Refinancings thereof); provided that such Liens that are secured by Collateral are subject to Applicable Intercreditor Arrangements;
  - (51) Liens comprising customary rights and restrictions contained in agreements relating to Dispositions and Asset Sales pending the completion thereof, or in the case of a license, during the term thereof and any option or other agreement to Dispose any asset not prohibited by Sections 7.03 and 7.04; and
  - (52) Liens securing Indebtedness permitted by clause (mm) of the definition of "Permitted Debt".

For all purposes hereunder, (x) a Lien need not be Incurred solely by reference to one category of Permitted Liens described in this definition but may be Incurred under any combination of such categories (including in part under one such category and in part under any other such category) and (y) in the event that a Lien (or any portion thereof) meets the criteria of one or more of such categories of Permitted Liens, the Parent Borrower shall, in its sole discretion, divide, classify or reclassify such Lien (or any portion thereof) in any manner that complies with this definition.

"Permitted Other Debt Conditions" means that such applicable Indebtedness does not mature or have scheduled amortization payments of principal and is not subject to mandatory redemption, repurchase, prepayment or sinking fund obligations (except (w) customary offers or obligations to repurchase, repay or redeem upon a change of control, asset sale, casualty or condemnation event or initial public offering, (x) maturity payments and customary mandatory prepayments for Extendable Bridge Loans/Interim Debt and amounts not in excess of the Inside Maturity Basket, (y) special mandatory redemptions in connection with customary escrow arrangements and customary acceleration rights after an event of default or (z) AHYDO payments), in each case prior to the Latest Maturity Date at the time such Indebtedness is incurred.

"Permitted Refinancing" means, with respect to any Person, any modification, amendment, refinancing, refunding, renewal, replacement, exchange or extension of any Indebtedness of such Person; provided that (a) the principal amount (or accreted value, if applicable) thereof does not exceed the principal amount (or accreted value, if applicable) of the Indebtedness so modified, refinanced, refunded, renewed,

replaced, exchanged or extended except by an amount equal to Refinancing Expenses, in connection with such modification, refinancing, refunding, renewal, replacement, exchange or extension and by an amount equal to any existing commitments unutilized thereunder; (b) other than with respect to Indebtedness under clause (c) of the definition of “Permitted Debt” or with respect to the initial maturity date for Extendable Bridge Loans/Interim Debt and amounts not to exceed the Inside Maturity Basket, such modification, refinancing, refunding, renewal, replacement, exchange or extension has a final maturity date equal to or later than the final maturity date of, and has a Weighted Average Life to Maturity equal to or greater than the Weighted Average Life to Maturity of, the Indebtedness being modified, refinanced, refunded, renewed, replaced, exchanged or extended; (c) if the Indebtedness being modified, refinanced, refunded, renewed, replaced, exchanged or extended is subordinated in right of payment to the Obligations, such modification, refinancing, refunding, renewal, replacement, exchange or extension is subordinated in right of payment to the Obligations on subordination terms, taken as a whole, as favorable in all material respects to the Lenders (including, if applicable, as to collateral) as those subordination terms contained in the documentation governing the Indebtedness being modified, refinanced, refunded, renewed, replaced, exchanged or extended or otherwise acceptable to the Administrative Agent; (d) if the Indebtedness being modified, amended, refinanced, refunded, renewed, replaced, exchanged or extended is (i) unsecured, such modification, amendment, refinancing, refunding, renewal, replacement, exchange or extension is unsecured, or (ii) secured by Liens on the Collateral, such modification, refinancing, refunding, replacement, renewal or extension is secured to the same extent, including with respect to any subordination provisions, and subject to Applicable Intercreditor Arrangements; (e) the terms and conditions (including, if applicable, as to collateral) of any such modified, refinanced, refunded, renewed, replaced, exchanged or extended (other than to the extent permitted by any other clause of this definition or with respect to pricing (including, for the avoidance of doubt, any “most favored nation” pricing provision), interest rate margins, rate floors, discounts, fees, premiums, prepayment premiums and optional prepayment and optional redemption terms) are, either (i) substantially identical to or less favorable to the investors providing such Permitted Refinancing, taken as a whole, than the terms and conditions of the Indebtedness being modified, refinanced, refunded, renewed, replaced, exchanged or extended, or (ii) when taken as a whole, not more favorable to the creditors providing such Indebtedness than those set forth in this Agreement or are customary for similar Indebtedness in light of then-prevailing market terms and conditions (taken as a whole) (as reasonably determined by the Borrower Representative in good faith) at the time of incurrence (provided that, at Parent Borrower’s option, delivery of a certificate of a Responsible Officer of the Parent Borrower to the Administrative Agent in good faith at least three (3) Business Days (or such shorter period as may be agreed by the Administrative Agent) prior to the incurrence of such Indebtedness, together with a reasonably detailed description of the material terms and conditions of such Indebtedness or drafts of the documentation relating thereto, stating that the Parent Borrower has determined in good faith that such terms and conditions satisfy the requirement set out in this clause (e), shall be conclusive evidence that such terms and conditions satisfy such requirement unless the Administrative Agent provides notice to Parent Borrower of its objection during such three (3) Business Day period (including a reasonable description of the basis upon which it objects)), in each case, except for terms and conditions only applicable to periods after the Latest Maturity Date; and (f) such modification, amendment, refinancing, refunding, renewal, replacement, exchange or extension is incurred by the Person who is or would have been permitted to be the obligor or guarantor (or any successor thereto) on the Indebtedness being modified, amended, refinanced, refunded, renewed, replaced or extended (it being understood that the roles of such obligors as a borrower or a guarantor with respect to such obligations may be interchanged).

“Permitted Restructuring Transactions” means, collectively, any transfers, dividends (other than dividends paid directly or indirectly by the Parent Borrower), Restricted Payments, intercompany Dispositions or Investments, related Indebtedness, mergers, dissolutions, liquidations, amalgamations, consolidations and other transactions, in each case among the Borrower Parties (collectively for purposes of this definition, “Transfers”) made for tax planning and/or reorganization purposes; provided that after giving effect thereto, neither the value of the security interest of the Collateral Agent (for the benefit of the Secured Parties) in the Collateral nor the value of the Guaranty, taken as a whole, is materially impaired (as determined by the Parent Borrower in good faith, which determination shall be conclusive).

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“Permitted Warrant Transaction” means any call option, warrant or right to purchase (or substantively equivalent derivative transaction) on the Parent Borrower’s common stock sold by the Parent Borrower substantially concurrently with any purchase by the Parent Borrower of a related Permitted Bond Hedge Transaction.

“Person” means any individual, corporation, company, partnership, limited liability company, joint venture, association, joint stock company, trust, unincorporated organization, government (or any agency or political subdivision thereof) or any other entity.

“Plan” means any “employee benefit plan” (other than a Multiemployer Plan) within the meaning of Section 3(3) of ERISA that is maintained or is contributed to by a Loan Party or a Grantor or any ERISA Affiliate or with respect to which a Loan Party or a Grantor or any ERISA Affiliate has any liability and is subject to Title IV of ERISA or the minimum funding standards under Section 412 of the Code or Section 302 of ERISA.

“Plan Asset Regulations” has the meaning specified in Section 9.18(d).

“Platform” has the meaning specified in Section 6.02.

“Pledged Debt” means “Pledged Debt” (or functionally equivalent term) as defined in the U.S. Security Agreement and each other applicable Collateral Document.

“Pledged Interests” means “Pledged Interests” (or functionally equivalent term) as defined in the U.S. Security Agreement and each other applicable Collateral Document.

“Preferred Stock” means any Equity Interest with preferential right of payment of cumulative cash dividends (other than dividends that are solely payable as and when declared by the Board of Directors of the Parent Borrower).

“Prepayment Amount” has the meaning specified in Section 2.05(c).

“Prepayment-Based Incremental Facility” has the meaning specified in Section 2.14(a).

“Prepayment Date” has the meaning specified in Section 2.05(c).

“Primary Disqualified Institution” has the meaning specified in the definition of “Disqualified Institution.”

“primary obligations” has the meaning specified in the definition of “Contingent Obligations”.

“primary obligor” has the meaning specified in the definition of “Contingent Obligations”.

“Prime Rate” means the rate of interest last quoted by The Wall Street Journal as the “Prime Rate” in the U.S. or, if The Wall Street Journal ceases to quote such rate, the highest per annum interest rate published by the FRB in Federal Reserve Statistical Release H.15 (519) (Selected Interest Rates) as the “bank prime loan” rate or, if such rate is no longer quoted therein, any similar rate quoted therein (as determined by the Administrative Agent) or any similar release by the FRB (as determined by the Administrative Agent). Each change in the Prime Rate shall be effective on the date that such change is publicly announced or quoted as being effective.

“Pro Forma Basis,” “Pro Forma Compliance” and “Pro Forma Effect” mean, with respect to the calculation of any test, financial ratio, basket or covenant under this Agreement, including the Consolidated First Lien Net Leverage Ratio, the Consolidated Secured Net Leverage Ratio, the Consolidated Total Net Leverage Ratio and the calculation of Consolidated Interest Expense, Consolidated Total Assets, Consolidated Net Income, Consolidated EBITDA, and the EBITDA Grower Amount of any Person and its Restricted Subsidiaries, as of any date, that pro forma effect will be given to the Transactions, any Specified Transaction, any acquisition, merger, amalgamation, consolidation, Investment, any issuance, Incurrence, assumption or repayment or redemption of Indebtedness (including Indebtedness issued, Incurred or assumed or repaid or redeemed as a result of, or to finance, any relevant transaction and for which any such test, financial ratio, basket or covenant is being calculated), any issuance or redemption of Preferred Stock or Disqualified Stock, all sales, transfers and other dispositions or discontinuance of any Subsidiary, line of business, division, segment or operating unit, or any designation of a Restricted Subsidiary to an Unrestricted Subsidiary or of an Unrestricted Subsidiary to a Restricted Subsidiary, in each case that have occurred during the four consecutive fiscal quarter period of such Person being used to calculate such test, financial ratio, basket or covenant (the “Reference Period”), or subsequent to the end of the Reference Period but prior to such date or prior to or substantially simultaneously with the event for which a determination under this definition is made (including (i) any such event occurring at a Person who became a Restricted Subsidiary of the subject Person or was merged, amalgamated or consolidated with or into the subject Person or any other Restricted Subsidiary of the subject Person after the commencement of the Reference Period and (ii) with respect to any proposed Investment or acquisition of the subject Person for which committed financing is or is sought to be obtained, the event for which a determination under this definition is made may occur after the date upon which the relevant determination or calculation is made), in each case, as if each such event occurred on the first day of the Reference Period; provided that (x) pro forma effect will be given to reasonably identifiable and quantifiable Pro Forma Cost Savings or expense reductions related to operational efficiencies (including the entry into or renegotiation of any material contract or arrangement), strategic initiatives or purchasing improvements and other cost savings, improvements or synergies, in each case, that have been realized, or are reasonably expected to be realized, by such Person and its Restricted Subsidiaries based upon actions to be taken within 24 months after the consummation of the action as if such cost savings, expense reductions, improvements and synergies occurred (or were realized) on the first day of the Reference Period, (y) no amount shall be added back pursuant to this definition to the extent duplicative of amounts that are otherwise included in computing Consolidated EBITDA for such Reference Period and (z) adjustments in the nature cost savings, operating expense reductions, operating improvements and synergies and similar items made pursuant to the definitions of “Pro Forma Basis”, “Pro Forma Compliance” and “Pro Forma Effect”, together with the aggregate amount of adjustments to Consolidated EBITDA pursuant to clause (1)(k) thereof, shall not exceed in the aggregate 30% of Consolidated EBITDA for any Test Period (prior to giving effect to the addback of such items pursuant to this definition and such clause (1)(k) of Consolidated EBITDA).

For purposes of making any computation referred to above:

- (1) if any Indebtedness bears a floating rate of interest and is being given Pro Forma Effect, the interest on such Indebtedness shall be calculated as if the rate in effect on the date for which a determination under this definition is made had been the applicable rate for the entire period (taking into account any Swap Contracts applicable to such Indebtedness if such Swap Contracts has a remaining term in excess of twelve (12) months);
- (2) interest on a Capitalized Lease Obligation shall be deemed to accrue at an interest rate reasonably determined by a responsible financial or accounting officer, in his or her capacity as such and not in his or her personal capacity, of the Parent Borrower to be the rate of interest implicit in such Capitalized Lease Obligation in accordance with GAAP;

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- (3) interest on Indebtedness that may optionally be determined at an interest rate based upon a factor of a prime or similar rate, an eurocurrency interbank offered rate, or other rate, shall be deemed to have been based upon the rate actually chosen, or, if none, then based upon such optional rate chosen as the Parent Borrower may designate;
  - (4) interest on any Indebtedness under a revolving credit facility or a Qualified Receivables Financing computed on a pro forma basis shall be computed based upon the average daily balance of such Indebtedness during the applicable period; and
  - (5) to the extent not already covered above, any such calculation may include adjustments calculated in accordance with Regulation S-X under the Securities Act (as in effect prior to January 1, 2021).

Any pro forma calculation may include (1) adjustments calculated in accordance with Regulation S-X under the Securities Act (as in effect prior to January 1, 2021) and (2) adjustments calculated to give effect to any Pro Forma Cost Savings; provided that any such adjustments that consist of reductions in costs and other operating improvements or synergies shall be calculated in accordance with, and satisfy the requirements specified in, the definition of “Pro Forma Cost Savings” and shall be subject to the limitations set forth above in this definition.

“Pro Forma Cost Savings” means, without duplication of any amounts referenced in the definition of “Pro Forma Basis,” an amount equal to the amount of “run rate” cost savings, operating expense reductions, operating improvements and synergies, in each case, projected in good faith to be realized (calculated on a pro forma basis as though such items had been realized on the first day of such period) as a result of actions taken or to be taken by the Borrowers (or any successor thereto) or any Restricted Subsidiary, net of the amount of actual benefits realized or expected to be realized during such period that are otherwise included in the calculation of Consolidated EBITDA from such actions; provided that such cost savings, operating expense reductions, operating improvements and synergies are reasonably identifiable (as determined in good faith by a responsible financial or accounting officer, in his or her capacity as such and not in his or her personal capacity, of the Parent Borrower (or any successor thereto)) and are reasonably anticipated to result from actions taken or to be taken within twenty-four (24) months after the consummation of any change that is expected to result in such cost savings, expense reductions, operating improvements or synergies; provided that no cost savings, operating expense reductions, operating improvements and synergies shall be added pursuant to this definition to the extent duplicative of any expenses or charges otherwise added to Consolidated Net Income or Consolidated EBITDA, whether through a pro forma adjustment, add back exclusion or otherwise, for such period.

“Pro Forma Covenant Compliance” means, if on any date of determination, the Financial Covenant set forth in Section 7.08 is in effect for the applicable Test Period, compliance on a Pro Forma Basis with Section 7.08.

“Pro Forma Financial Statements” means the unaudited pro forma condensed combined balance sheet as of March 31, 2025 and the unaudited pro forma condensed combined statement of operations for the year ended December 31, 2024 and the three months ended March 31, 2025, in each case, included in the Form 10 and prepared after giving effect to the Spin-off Transactions and certain other transactions as described in the Form 10.

“Pro Rata Share” means, with respect to each Lender and any Facility or all the Facilities or any Tranche or all the Tranches (as the case may be) at any time, a fraction (expressed as a percentage, carried out to the ninth decimal place, and subject to adjustment as provided in Section 2.17), the numerator of which is the amount of the Commitments of such Lender under the applicable Facility or the Facilities or Tranche or Tranches (and, in the case of any Term Loan Tranche after the applicable borrowing date and

without duplication, the outstanding principal amount of Term Loans under such Tranche, of such Lender, at such time) at such time and the denominator of which is the amount of the Aggregate Commitments under the applicable Facility or the Facilities or Tranche or Tranches at such time (and, in the case of any Term Loan Tranche and without duplication, the outstanding principal amount of Term Loans under such Tranche, at such time); provided that if the commitment of each Lender to make Loans and the obligation of each L/C Issuer to make L/C Credit Extensions have been terminated pursuant to Section 8.02, then the Pro Rata Share of each Lender shall be determined based on the Pro Rata Share of such Lender immediately prior to such termination and after giving effect to any subsequent assignments made pursuant to the terms hereof. The initial Pro Rata Share of each Lender is set forth opposite the name of such Lender on Schedule 2.01 or in the Assignment and Assumption pursuant to which such Lender became a party hereto, as applicable.

“Projections” has the meaning specified in Section 5.14.

“Public Lender” has the meaning specified in Section 6.02.

“Purchase” has the meaning specified in the definition of “Dutch Auction.”

“QFC” has the meaning assigned to the term “qualified financial contract” in, and shall be interpreted in accordance with, 12 U.S.C. 5390(c)(8) (D).

“QFC Credit Support” has the meaning specified in Section 9.16.

“Qualified Receivables Factoring” means any Factoring Transaction that meets the following conditions:

- (1) such Factoring Transaction is non-recourse to, and does not obligate, Parent Borrower or any Restricted Subsidiary, or their respective properties or assets (other than Receivables Assets) in any way other than pursuant to Standard Securitization Undertakings,
- (2) all sales, conveyances, assignments and/or contributions of Receivables Assets by Parent Borrower or any Restricted Subsidiary are made at Fair Market Value in the context of a Factoring Transaction (as determined in good faith by Parent Borrower), and
- (3) such Factoring Transaction (including financing terms, covenants, termination events (if any) and other provisions thereof) is on market terms at the time such Factoring Transaction is first entered into (as determined in good faith by Parent Borrower) and may include Standard Securitization Undertakings.

The grant of a security interest in any accounts receivable of the Parent Borrower or any of its Restricted Subsidiaries (other than a Receivables Subsidiary) to secure any Credit Agreement shall not be deemed a Qualified Receivables Factoring.

“Qualified Receivables Financing” means any Receivables Financing of a Receivables Subsidiary that meets the following conditions:

- (1) all sales/transfers assignments and/or contributions of Receivables Assets by any Borrower or any Restricted Subsidiary to the Receivables Subsidiary are made at Fair Market Value (as determined in good faith by the Parent Borrower), and

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- (2) the financing terms, covenants, termination events and other provisions thereof shall be market terms at the time the receivables financing is first introduced (as determined in good faith by the Parent Borrower) and may include Standard Securitization Undertakings.

The grant of a security interest in any accounts receivable of any Borrower or any of its Restricted Subsidiaries (other than a Receivables Subsidiary) to secure any Credit Agreement shall not be deemed a Qualified Receivables Financing.

“Qualifying Bids” has the meaning specified in the definition of “Dutch Auction.”

“Rating Agency” means (a) each of Moody’s and S&P and (b) if Moody’s or S&P ceases to rate the Initial Term Facility for reasons outside of the Parent Borrower’s control, a “nationally recognized statistical rating organization” within the meaning of Section 3 under the Exchange Act selected by the Parent Borrower as a replacement agency for Moody’s or S&P, as the case may be.

“Ratio-Based Incremental Facility” has the meaning specified in Section 2.14(a).

“Ratio Debt” has the meaning specified in Section 7.01(a).

“Receivables Assets” means accounts receivable (whether now existing or arising in the future) of the Parent Borrower or any of its Subsidiaries that are, or are in the process of becoming, subject to a Qualified Receivables Financing or Qualified Receivables Factoring, and any assets related thereto including all collateral securing such accounts receivable, all contracts and all guarantees or other payment support obligations (including letters of credit, promissory notes or trade credit insurance) in respect of such accounts receivable, proceeds of such accounts receivable and other assets which are customarily transferred or in respect of which security interests are customarily granted in connection with non-recourse, asset securitization or factoring transactions involving accounts receivable and any Swap Contracts entered into by Parent Borrower or any such Subsidiary in connection with such accounts receivable.

“Receivables Fees” means distributions or payments made directly or by means of discounts with respect to any participation interest issued or sold in connection with, and other fees paid to a Person that is not a Restricted Subsidiary in connection with, any Receivables Financing or Factoring Transaction.

“Receivables Financing” means any transaction or series of transactions that may be entered into by the Parent Borrower or any of its Subsidiaries pursuant to which the Parent Borrower or any of its Subsidiaries may sell, contribute, convey, assign or otherwise transfer Receivables Assets to (a) a Receivables Subsidiary (in the case of a transfer by Parent Borrower or any of its Subsidiaries), and (b) any other Person (in the case of a transfer by a Receivables Subsidiary), which in either case, may include a backup or precautionary grant of security interest in such Receivables Assets so sold, contributed, conveyed, assigned or otherwise transferred.

“Receivables Repurchase Obligation” means (a) any obligation of a seller of receivables in a Qualified Receivables Factoring or Qualified Receivables Financing to repurchase receivables arising as a result of a breach of a representation, warranty or covenant or otherwise, including as a result of a receivable or portion thereof becoming subject to any asserted defense, dispute, off-set or counterclaim of any kind as a result of any action taken by, any failure to take action by or any other event relating to the seller, or (b) any right of a seller of receivables in a Qualified Receivables Factoring or Qualified Receivables Financing to repurchase defaulted receivables for the purposes of claiming sales tax bad debt relief.



“Receivables Subsidiary” means a Wholly Owned Restricted Subsidiary of the Parent Borrower (or another Person formed for the purposes of engaging in a Qualified Receivables Financing with the Parent Borrower and/or one or more of its Subsidiaries (including, a special purpose securitization vehicle (or similar entity)) in which the Parent Borrower or any Subsidiary of the Parent Borrower makes an Investment (or which otherwise owes to the Parent Borrower or one of its Subsidiaries any deferral of part of the purchase price of the Receivables Assets for the purpose of credit enhancement given under the Qualified Receivables Financing) and to which the Parent Borrower or any Subsidiary of the Parent Borrower sells, conveys, assigns or otherwise transfers Receivables Assets (which may include a backup or precautionary grant of security interest in such Receivables Assets sold, conveyed, assigned or otherwise transferred or purported to be so sold, conveyed, assigned or otherwise transferred)) which engages in no activities other than in connection with the purchase, acquisition or financing of Receivables Assets of the Parent Borrower and its Subsidiaries, all proceeds thereof and all rights (contractual or other), collateral and other assets relating thereto, and any business or activities incidental or related to such business, and which is designated by senior management or the Board of Directors of the Parent Borrower (as provided below) as a Receivables Subsidiary and:

- (1) no portion of the Indebtedness or any other obligations (contingent or otherwise) of which (i) is guaranteed by the Parent Borrower or any Restricted Subsidiary (other than a Receivables Subsidiary, excluding guarantees of obligations (other than the principal of, and interest on, Indebtedness) pursuant to Standard Securitization Undertakings), (ii) is recourse to or obligates the Parent Borrower or any Restricted Subsidiary (other than a Receivables Subsidiary) in any way other than pursuant to Standard Securitization Undertakings, or (iii) subjects any property or asset of the Parent Borrower or any Restricted Subsidiary (other than a Receivables Subsidiary), directly or indirectly, contingently or otherwise, to the satisfaction thereof, other than pursuant to Standard Securitization Undertakings,
- (2) with which neither the Parent Borrower nor any Restricted Subsidiary (other than a Receivables Subsidiary) has any material contract, agreement, arrangement or understanding other than on terms which the Parent Borrower reasonably believes to be no less favorable to the Parent Borrower or such Subsidiary than those that might be obtained at the time from Persons that are not Affiliates of the Parent Borrower, and
- (3) to which neither the Parent Borrower nor any other Subsidiary of the Parent Borrower has any obligation to maintain or preserve such entity’s financial condition or cause such entity to achieve certain levels of operating results.

Any such designation by senior management or the Board of Directors of the Parent Borrower shall be evidenced to the Administrative Agent by filing with the Administrative Agent a certified copy of the resolution of the Board of Directors of the Parent Borrower or the determination by applicable senior management of the Parent Borrower, in each case giving effect to such designation and an officer’s certificate certifying that such designation complied with the foregoing conditions.

“Recipient” means any Agent, any Lender, and any L/C Issuer, or any other recipient of any payment to be made by or on account of any obligation of any Loan Party or any Grantor hereunder or under any other Loan Document, as applicable.

“Reference Period” has the meaning specified in the definition of Pro Forma Basis.

“Reference Time” with respect to any setting of the then-current Benchmark means (a) if such Benchmark is the Term SOFR Rate, 5:00 a.m. (Chicago time) on the day that is two U.S. Government Securities Business Days preceding the date of such setting and (b) if such Benchmark is not the Term SOFR Rate, the time determined by the Administrative Agent in its reasonable discretion.

“Refinancing Amendment” means an amendment to this Agreement, in form and substance reasonably satisfactory to the Administrative Agent, among the Borrowers, the Administrative Agent and the Lenders providing Specified Refinancing Debt, effecting the incurrence of such Specified Refinancing Debt in accordance with Section 2.18.

“Refinancing Expenses” means, in connection with any refinancing of any Indebtedness, Disqualified Stock or Preferred Stock permitted by this Agreement, the aggregate principal amount of additional Indebtedness, Disqualified Stock or Preferred Stock Incurred to pay (a) accrued and unpaid interest, (b) the increased principal amount of any Indebtedness being refinanced resulting from the in-kind payment of interest on such Indebtedness (or in the case of Disqualified Stock or Preferred Stock being refinanced, additional shares of such Disqualified Stock or Preferred Stock); (c) the aggregate amount of original issue discount on the Indebtedness, Disqualified Stock or Preferred Stock being refinanced; (d) premiums (including tender, extension or prepayment premiums) and other costs associated with the redemption, repurchase, retirement, discharge or defeasance of Indebtedness, Disqualified Stock or Preferred Stock being refinanced, and (e) all fees and expenses (including underwriting discounts, commitment, ticking and similar fees, commissions, expenses and discounts) associated with the repayment of the Indebtedness, Disqualified Stock or Preferred Stock being refinanced and the incurrence of the Indebtedness, Disqualified Stock or Preferred Stock incurred in connection with such refinancing.

“Refinancing Indebtedness” has the meaning specified in clause (n) of the definition of “Permitted Debt”.

“Refinancing Notes” means one or more series of senior unsecured notes or loans, senior secured notes or loans secured by the Collateral on a first lien “equal and ratable” basis with the Liens securing the Obligations, senior secured notes or loans secured by the Collateral on a “junior” basis to the Liens securing the Obligations, senior subordinated (including unsecured) notes or loans or subordinated (including unsecured) notes or loans, in each case issued in respect of a refinancing of outstanding Indebtedness of the Borrowers under any one or more Tranches and in each case Incurred by the Loan Parties; provided that, (a) if such Refinancing Notes shall be secured, then (i) such Refinancing Notes shall only be secured by a security interest in the Collateral that secured the Tranche being refinanced, and (ii) such Refinancing Notes shall be issued subject to Applicable Intercreditor Arrangements; (b) other than with respect to the initial maturity date for Extendable Bridge Loans/Interim Debt and Refinancing Notes in an amount not in excess of the Inside Maturity Basket at the time of Incurrence, no Refinancing Notes shall (i) mature prior to the scheduled Maturity Date of the Tranche being refinanced or (ii) have a shorter Weighted Average Life to Maturity than the Tranche being refinanced; (c) the terms and conditions (other than pricing (including, for the avoidance of doubt, any “most favored nation” pricing provision), interest rate margins, rate floors, discounts, fees, premiums, prepayment premiums and optional prepayment and optional redemption terms) are, taken as a whole, not materially more favorable to the creditors providing such Refinancing Notes than those applicable to the Tranche being refinanced (taken as a whole) at the time of Incurrence (as reasonably determined by the Borrower Representative in good faith), unless such provisions shall be customary for similar debt securities or loans in light of then-prevailing market terms and conditions (taken as a whole) at the time of Incurrence (as reasonably determined by the Borrower Representative in good faith) (it being understood that no (A) Refinancing Notes shall include any financial maintenance covenants, but that customary cross-acceleration provisions may be included, and (B) any negative covenants with respect to indebtedness, investments, liens or restricted payments shall be incurrence-based) (provided, that, at the Parent Borrower’s option, delivery of a certificate of a Responsible Officer of the Parent Borrower to the Administrative Agent in good faith at least three (3) Business Days (or such shorter period as may be agreed by the Administrative Agent) prior to the incurrence of such Refinancing Notes, together with a reasonably detailed description of the material terms and conditions of such Refinancing Notes or drafts of the documentation relating thereto, stating that the Parent Borrower has determined in good faith that such terms and conditions satisfy the requirement set forth in this clause (c)) shall be conclusive evidence that

such terms and conditions satisfy such requirement unless the Administrative Agent provides notice to the Parent Borrower of its objection during such three (3) Business Day (or shorter) period (including a reasonable description of the basis upon which it objects)); (d) such Refinancing Notes may not have obligors or Liens that are more extensive than those which applied to the Indebtedness being refinanced (or such other arrangements satisfactory to the Administrative Agent) (it being understood that the roles of such obligors as a borrower or a guarantor with respect to such obligations may be interchanged); (e) if such Refinancing Notes are subordinated, such Refinancing Notes shall be subject to customary subordination provisions reasonably acceptable to the Administrative Agent; and (f) the Net Cash Proceeds of such Refinancing Notes shall be applied, substantially concurrently with the incurrence thereof, to the pro rata prepayment of outstanding Term Loans under the applicable Term Loan Tranche being so refinanced (or to the less than pro rata prepayment of the applicable outstanding Term Loans made by any Term Lenders that will be purchasers of the Refinancing Notes, as approved by such Term Lenders) and the payment of fees, expenses and premiums, if any, payable in connection therewith; provided, further, that such Refinancing Notes (x) may provide for any additional or different financial or other covenants or other provisions that (1) are agreed among the issuers or borrowers and the creditors thereof and applicable only during periods after the then Latest Maturity Date in effect or (2) are incorporated into this Agreement (or any other applicable Loan Document) for the benefit of all existing Lenders (to the extent applicable to such Lender) by an amendment to this Agreement (which may be accomplished without further Lender voting requirements) and (y) shall not have a principal or commitment amount (or accreted value) greater than the Loans being refinanced (*plus* an amount equal to accrued interest, fees, discounts, premiums and expenses).

“Refinancing Notes Indentures” means, collectively, the indentures or other similar agreements pursuant to which any Refinancing Notes are issued, together with all instruments and other agreements in connection therewith, as amended, supplemented or otherwise modified from time to time in accordance with the terms thereof, but only to the extent permitted under the terms of the Loan Documents.

“Refunding Capital Stock” has the meaning specified in Section 7.05(b).

“Register” has the meaning specified in Section 10.07(c).

“Regulated Bank Lender” means (a) a commercial bank with a consolidated combined capital and surplus of at least \$5,000,000,000 and that is (i) a U.S. depository institution the deposits of which are insured by the Federal Deposit Insurance Corporation; (ii) a corporation organized under section 25A of the U.S. Federal Reserve Act of 1913; (iii) a branch, agency or commercial lending company of a foreign bank operating pursuant to approval by and under the supervision of the FRB under 12 CFR part 211; (iv) a non-U.S. branch of a foreign bank managed and controlled by a U.S. branch referred to in clause (iii); or (v) any other U.S. or non-U.S. depository institution or any branch, agency or similar office thereof supervised by a bank regulatory authority in any jurisdiction or (b) any Affiliate of a Person set forth in clause (a) above to the extent that (i) all of the capital stock of such Affiliate is directly or indirectly owned by either (A) such Person set forth in clause (a) above or (B) a parent entity that also owns, directly or indirectly, all of the capital stock of such Person set forth in clause (a) and (ii) such Affiliate is a securities broker or dealer registered with the SEC under Section 15 of the Exchange Act.

“Regulation S-X” means Regulation S-X under the Securities Act.

“Regulatory Authority” has the meaning specified in Section 10.08.

“Related Business Assets” means assets (other than cash or Cash Equivalents) used or useful in a Similar Business; provided that any assets received by a Borrower or a Restricted Subsidiary in exchange for assets transferred by a Borrower or a Restricted Subsidiary will not be deemed to be Related Business Assets if they consist of securities of a Person, unless such Person is, or upon receipt of the securities of such Person, such Person would become, a Restricted Subsidiary.

“Related Parties” means, with respect to any Person, such Person’s Affiliates and the partners, members, directors, managers, officers, employees, agents, attorneys-in-fact, trustees and advisors of such Person and of such Person’s Affiliates.

“Relevant Governmental Body” means the FRB, the NYFRB or a committee officially endorsed or convened by the FRB and/or the NYFRB or, in each case, any successor thereto.

“Relevant Screen Rate” means with respect to any Term Benchmark Borrowing, the Term SOFR Reference Rate.

“Relevant Transaction” has the meaning specified in Section 2.05(b)(ii).

“Replaceable Lender” has the meaning specified in Section 3.08(a).

“Replacement Assets” means (a) substantially all the assets of a Person primarily engaged in a Similar Business or (b) a majority of the Voting Stock of any Person primarily engaged in a Similar Business that will become, on the date of acquisition thereof, a Restricted Subsidiary.

“Reply Amount” has the meaning specified in the definition of “Dutch Auction.”

“Reply Discount” has the meaning specified in the definition of “Dutch Auction.”

“Reportable Event” means any of the events set forth in Section 4043(c) of ERISA, other than events for which the 30-day notice period has been waived.

“Repricing Event” means (a) any prepayment or repayment of Initial Term Loans, in whole or in part, with the proceeds of, or conversion of any portion of Initial Term Loans into, any new or replacement tranche of syndicated term loans under credit facilities incurred for the primary purpose of repaying, refinancing, or replacing Initial Term Loans with term loans bearing interest with an All-in Yield less than the All-in Yield applicable to such portion of such Initial Term Loans (as such comparative yields are determined in the reasonable judgment of the Administrative Agent in consultation with the Parent Borrower consistent with generally accepted financial practices) and (b) any amendment to any Facility with respect to Initial Term Loans the primary purpose of which is to reduce the All-in Yield applicable to such Initial Term Loans; provided that a Repricing Event shall not include any event described above that is not consummated for the primary purpose of lowering the effective interest cost or weighted average yield applicable to such Initial Term Loans, including in the context of a transaction involving a Change of Control or a Transformative Event.

“Request for Credit Extension” means (a) with respect to a Borrowing, conversion or continuation of Loans, a Committed Loan Notice, and (b) with respect to an L/C Credit Extension, a Letter of Credit Application.

“Required Lenders” means, as of any date of determination, Lenders having more than 50% of the sum of the (a) Total Outstandings (with the aggregate amount of each Lender’s risk participation and funded participation in L/C Obligations being deemed “held” by such Lender for purposes of this definition), (b) aggregate unused Term Commitments and (c) aggregate unused Revolving Credit Commitments; provided that the unused Term Commitments of, unused Revolving Credit Commitment of, and the portion of the Total Outstandings held or deemed held by any Defaulting Lender shall be excluded for purposes of making a determination of Required Lenders.

“Required Revolving Lenders” means, as of any date of determination, Revolving Credit Lenders holding more than 50% of the sum of (a) Total Revolving Credit Outstandings (with the aggregate amount of each Revolving Credit Lender’s risk participation and funded participation in L/C Obligations being deemed “held” by such Revolving Credit Lender for purposes of this definition) and (b) aggregate unused Revolving Credit Commitments; provided that the unused Revolving Credit Commitment of, and the portion of the Total Revolving Credit Outstandings held or deemed held by, any Defaulting Lender shall be excluded for purposes of making a determination of Required Revolving Lenders.

“Resolution Authority” means an EEA Resolution Authority or, with respect to any UK Financial Institution, a UK Resolution Authority.

“Responsible Officer” means, with respect to any Person, the Chairman of the Board, Chief Executive Officer, Chief Financial Officer, President, any Executive Vice President, Senior Vice President or Vice President, the Treasurer, the Controller or the Secretary (or any person serving the equivalent function of any of the foregoing) of such Person (or of any direct or indirect parent, general partner, managing member or sole member of such Person) or any individual designated as an “Officer” by the Board of Directors of such Person (or the Board of Directors of any direct or indirect parent or the general partner, managing member or sole member of such Person).

“Restricted Investment” means an Investment other than a Permitted Investment.

“Restricted Payments” has the meaning specified in Section 7.05.

“Restricted Subsidiary” means any Subsidiary of the Parent Borrower that is not an Unrestricted Subsidiary.

“Retained Excess Cash Flow” shall mean, with respect to any Excess Cash Flow Period, the amount of Excess Cash Flow not required to be applied to repay Term Loans pursuant to Section 2.05(b)(i).

“Retired Capital Stock” has the meaning specified in Section 7.05(b).

“Return Bid” has the meaning specified in the definition of “Dutch Auction.”

“Reuters” means, as applicable, Thomson Reuters Corp., Refinitiv, or any successor thereto.

“Revolving Arrangers” means SMBC, JPMorgan, BofA Securities, Inc., Barclays Bank PLC, BNP Paribas, Citibank, N.A., Goldman Sachs Bank USA, Mizuho Bank, Ltd., MUFG Bank, Ltd. and HSBC Securities (USA) Inc., as joint lead arrangers and joint bookrunners for the Closing Date Revolving Credit Facility.

“Revolving Commitment Increase Lender” has the meaning specified in Section 2.14(e).

“Revolving Credit Borrowing” means a borrowing under the Revolving Credit Facility on a given date (or resulting from a conversion or conversions on such date) consisting of simultaneous Revolving Credit Loans of the same Type and, in the case of Term Benchmark Loans, having the same Interest Period made by each of the Revolving Credit Lenders pursuant to Section 2.01(b).

“Revolving Credit Commitment Increase” has the meaning specified in Section 2.14(a).

“Revolving Credit Commitments” means, as to any Revolving Credit Lender, its obligation, if any, to (a) make Revolving Credit Loans to the Borrowers pursuant to Section 2.01(b) or New Revolving Commitments to Borrowers established pursuant to Section 2.14 and (b) purchase participations in L/C Obligations, in an aggregate principal and/or face amount not to exceed the amount set forth under the

heading “Revolving Credit Commitment” opposite such Lender’s name on Schedule 2.01, or in the Assignment and Assumption pursuant to which such Lender became a party hereto or in any incremental amendment establishing New Revolving Commitments pursuant to Section 2.14, as applicable, as the same may be adjusted from time to time in accordance with this Agreement. The Revolving Credit Commitments shall include all Revolving Credit Commitment Increases, New Revolving Commitments and Specified Refinancing Revolving Credit Commitments. The amount of the Revolving Credit Commitments shall be \$1,250,000,000 on the Closing Date, as such amount may be adjusted from time to time in accordance with the terms of this Agreement.

“Revolving Credit Facility” means, at any time, the aggregate amount of the Revolving Credit Lenders’ Revolving Credit Commitments in respect of any Revolving Tranche at such time.

“Revolving Credit Lender” means, at any time, any Lender that has a Revolving Credit Commitment at such time (and after the termination of all Revolving Credit Commitments and any Lender that holds any Outstanding Amount in respect of Revolving Credit Loans and/or L/C Obligations).

“Revolving Credit Loan” has the meaning specified in Section 2.01(b).

“Revolving Credit Note” means a promissory note of the Borrowers payable to any Revolving Credit Lender or its registered assigns, in substantially the form of Exhibit B-2 hereto, evidencing the aggregate indebtedness of the Borrowers to such Revolving Credit Lender resulting from the Revolving Credit Loans made by such Revolving Credit Lender.

“Revolving Tranche” means (a) the Revolving Credit Facility pursuant to which Revolving Credit Loans or Letters of Credit are made under the Revolving Credit Commitments and (b) any Specified Refinancing Debt constituting revolving credit facility commitments, in each case, including the extensions of credit made thereunder. Additional Revolving Tranches may be added after the Closing Date as provided in Section 2.14, i.e., New Revolving Commitments.

“S&P” means S&P Global Ratings, a S&P Financial Services LLC business, or any successor to the rating agency business thereof.

“Sale/Leaseback Basket” has the meaning specified in clause (b) of the definition of “Permitted Debt”.

“Sale/Leaseback Transaction” means an arrangement relating to property now owned or hereafter acquired by a Borrower or a Restricted Subsidiary whereby a Borrower or a Restricted Subsidiary transfers such property to a Person and such Borrower or such Restricted Subsidiary leases it from such Person, other than leases between a Borrower and a Restricted Subsidiary or between Restricted Subsidiaries.

“Same Day Funds” means immediately available funds.

“Sanctioned Country” means, at any time, a country, region, or territory that is itself the subject or target of any comprehensive Sanctions Laws and Regulations (as of the date of this Agreement, Cuba, Iran, the Democratic People’s Republic of Korea, the Crimea Region of Ukraine, the so-called Donetsk People’s Republic, the so-called Luhansk People’s Republic and the non-government controlled areas of the Zaporizhzhia and Kherson oblasts of Ukraine).

“Sanctioned Person” means, at any time, (a) any Person listed in any Sanctions Laws and Regulations-related lists of designated Persons maintained by OFAC, the U.S. Department of State, the United Nations Security Council, His Majesty’s Treasury of the United Kingdom or the European Union, (b) any Person located, organized, or resident in a Sanctioned Country, (c) any Person owned or controlled by any such Person or Persons described in the foregoing clauses (a) and (b) or (d) any Person that is otherwise the subject or target of Sanctions Laws and Regulations.

“Sanctions Laws and Regulations” means economic or financial sanctions or trade embargoes imposed, administered or enforced by the U.S. Department of the Treasury’s Office of Foreign Assets Control (“OFAC”), the U.S. Department of State, the United Nations Security Council, the European Union or His Majesty’s Treasury of the United Kingdom.

“SEC” means the U.S. Securities and Exchange Commission.

“Section 2.22 Additional Amendment” has the meaning specified in Section 2.22(c).

“Secured Cash Management Agreement” means any Cash Management Agreement that is entered into by and between any Loan Party and any Cash Management Bank, except for any such Cash Management Agreement designated by the Borrowers and the applicable Cash Management Bank in writing to the Administrative Agent as an “unsecured cash management agreement” as of the Closing Date or, if later, on or about the time of entering into such Cash Management Agreement.

“Secured Documents” has the meaning specified in the definition of “Secured Obligations.”

“Secured Hedge Agreement” means any Swap Contract permitted under Article VII that is entered into by and between any Loan Party and any Hedge Bank, except for any such Swap Contract designated by the Borrowers and the applicable Hedge Bank in writing to the Administrative Agent as an “unsecured hedge agreement” as of the Closing Date or, if later, as of the time of entering into such Swap Contract.

“Secured Obligations” means all Obligations now or hereafter existing, including under the Loan Documents, any Secured Cash Management Agreement or any Secured Hedge Agreement (the Loan Documents, Secured Cash Management Agreements and Secured Hedge Agreements, collectively, the “Secured Documents”) (as such Secured Documents may be amended, restated, amended and restated, supplemented, replaced, refinanced or otherwise modified from time to time (including any increases of the principal amount outstanding thereunder)), whether direct or indirect, absolute or contingent, and whether for principal, reimbursement obligations, interest, fees, premiums, penalties, indemnifications, contract causes of action, costs, expenses or otherwise.

“Secured Parties” means, collectively, the Administrative Agent, the Collateral Agent, the Lenders (including, for the avoidance of doubt, the L/C Issuers), the Hedge Banks to the extent they are party to one or more Secured Hedge Agreements, the Cash Management Banks to the extent they are party to one or more Secured Cash Management Agreements and each co-agent or subagent appointed by the Administrative Agent or the Collateral Agent from time to time pursuant to Article IX.

“Securities Act” means the U.S. Securities Act of 1933, as amended, and the rules and regulations of the SEC promulgated thereunder.

“Security Agreement” means, collectively, the New York law governed Security Agreement dated as of the Spin-off Date executed by the Loan Parties party thereto, substantially in the form of Exhibit F (the “U.S. Security Agreement”) and each other security agreement and security agreement supplement executed and delivered pursuant to Section 6.12 or 6.16.

“Security Agreement Supplement” has the meaning specified in the U.S. Security Agreement.

“Senior Notes” means the Senior Secured Notes and the Senior Unsecured Notes.

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“Senior Notes Indentures” means the Senior Secured Notes Indenture and the Senior Unsecured Notes Indenture.

“Senior Notes Trustee” means U.S. Bank Trust Company, National Association, in its capacity as trustee under the Senior Notes Indentures.

“Senior Secured Notes” means the 5.750% Senior Secured Notes in the aggregate principal amount of \$1,000,000,000 due 2032 issued by the Parent Borrower pursuant to the Senior Secured Notes Indenture (including any Permitted Refinancing in respect thereof).

“Senior Secured Notes Collateral Agent” means U.S. Bank Trust Company, National Association, in its capacity as collateral agent under the Senior Secured Notes Indenture.

“Senior Secured Notes Indenture” means that certain Indenture dated as of August 15, 2025, between the Parent Borrower, as issuer, the Senior Notes Trustee and the Senior Secured Notes Collateral Agent.

“Senior Unsecured Notes” means the 6.250% Senior Unsecured Notes in the aggregate principal amount of \$750,000,000 due 2033 issued by the Parent Borrower pursuant to the Senior Unsecured Notes Indenture (including any Permitted Refinancing in respect thereof).

“Senior Unsecured Notes Indenture” means that certain Indenture dated as of August 15, 2025, between the Parent Borrower, as issuer, and Senior Notes Trustee.

“Separation Agreements” means, collectively, the separation and distribution agreement (the “Separation and Distribution Agreement”), tax matters agreement (the “Tax Matters Agreement”), employee matters agreement (the “Employee Matters Agreement”), transition services agreements (the “Transition Services Agreement”) and intellectual property cross-license agreement (the “Intellectual Property Cross-License Agreement”), in each case, to be dated on or about the Spin-off Date between DuPont and the Parent Borrower, transitional house marks trademark license agreement, regulatory matters agreement, DuPont™ TMODES dynamic process simulation software agreement, umbrella secrecy agreement, product supply agreements, raw materials supply agreements, contract manufacturing agreements, ground leases, space leases, site services agreements, Experimental Station cost sharing agreement, and any and all other agreements, instruments, assignments (including that certain assignment agreement relating to the partial assignment of certain obligations under that certain letter agreement, dated as of June 1, 2019, by and between DuPont and Corteva, Inc.) or other arrangements among DuPont, the Parent Borrower and/or their respective Subsidiaries entered into in connection with the Spin-off.

“Separation and Distribution Agreement” has the meaning specified in the definition of “Separation Agreements.”

“Similar Business” means any business engaged or proposed to be engaged in by the Parent Borrower and its Restricted Subsidiaries on the Closing Date and any business or other activities that are similar, ancillary, complementary, incidental or related thereto, or an extension, development or expansion of, the business operations in which the Parent Borrower and its Restricted Subsidiaries are engaged on the Closing Date.

“SMBC” means Sumitomo Mitsui Banking Corporation.

“SOFR” means a rate equal to the secured overnight financing rate as administered by the SOFR Administrator.



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“SOFR Administrator” means the NYFRB (or a successor administrator of the secured overnight financing rate).

“SOFR Administrator’s Website” means the NYFRB’s website, currently at <http://www.newyorkfed.org>, or any successor source for the secured overnight financing rate identified as such by the SOFR Administrator from time to time.

“SOFR Determination Date” has the meaning specified in the definition of “Daily Simple SOFR”.

“SOFR Rate Day” has the meaning specified in the definition of “Daily Simple SOFR”.

“Solvent” means, with respect to the Parent Borrower and its Restricted Subsidiaries (on a consolidated basis) on any date of determination, that on such date (a) the fair aggregate value of the assets and property of the Parent Borrower and its Restricted Subsidiaries (on a consolidated basis) is greater than the total amount of liabilities, including contingent liabilities, of the Parent Borrower and its Restricted Subsidiaries (on a consolidated basis) and is sufficient to enable payment of all the Parent Borrower’s and its Restricted Subsidiaries’ (on a consolidated basis) obligations due and accruing due, (b) the aggregate present fair salable value of the assets and property of the Parent Borrower and its Restricted Subsidiaries (on a consolidated basis) is greater than or equal to the total amount that will be required to pay the probable liabilities, including contingent liabilities, of the Loan Parties and Grantors as they become absolute and matured and is sufficient to enable payment of all such Person’s obligations due and accruing due, (c) the capital of the Parent Borrower and its Restricted Subsidiaries (on a consolidated basis) is not unreasonably small in relation to their business as contemplated on such date of determination and (d) the Parent Borrower and its Restricted Subsidiaries (on a consolidated basis) have not and do not intend to, and do not believe that they will, incur debts or other obligations, including current obligations, beyond their ability to pay such debts and liabilities as they become due (whether at maturity or otherwise) and are not for any reason unable to pay their debts or meets their obligations as they generally become due. The amount of contingent liabilities at any time shall be computed as the amount that, in the light of all the facts and circumstances existing at such time, represents the amount that can reasonably be expected to become an actual or matured liability or, if a different methodology is prescribed by applicable Laws, as prescribed by such Laws.

“SPC” has the meaning specified in Section 10.07(g).

“Special Dividend” means the Qnity Cash Distribution as described in the Form 10.

“Specified Existing Tranche” has the meaning specified in Section 2.22(a).

“Specified Indebtedness” has the meaning specified in Section 10.01.

“Specified Refinancing Agent” has the meaning specified in Section 2.18(a).

“Specified Refinancing Debt” has the meaning specified in Section 2.18(a).

“Specified Refinancing Revolving Credit Commitment” has the meaning specified in Section 2.18(a).

“Specified Refinancing Revolving Loans” means Specified Refinancing Debt constituting revolving loans.

“Specified Refinancing Term Commitment” has the meaning specified in Section 2.18(a).

“Specified Refinancing Term Loans” means Specified Refinancing Debt constituting term loans.

“Specified Representations” means the representations and warranties relating to the applicable Borrowers set forth in Sections 5.01(a) (solely with respect to the Loan Parties and the Grantors) and (b)(ii) (solely with respect to the Loan Parties and the Grantors), 5.02(a), (b) and (c), 5.04, 5.13, 5.17 (with such representation to be made as of the Closing Date or other applicable date of Credit Extension, as applicable), 5.18 (on the Closing Date, solely with respect to (i) the creation of security interests pursuant to the U.S. Security Agreement and (ii) the perfection of the security interests created by the U.S. Security Agreement on such Collateral that may be perfected by the filing of a financing statement under Article 9 of the UCC or by the delivery of certificates if any, evidencing the Equity Interests of any material Wholly-Owned Restricted Subsidiaries that are U.S. Subsidiaries that constitute Collateral), 5.19(a) (solely with respect to the last sentence thereof) and 5.20 (solely with respect to the first sentence thereof).

“Specified Transaction” means any incurrence or repayment of Indebtedness (excluding Indebtedness incurred for working capital purposes other than pursuant to this Agreement) or Investment (including any proposed Investment or acquisition) that results in a Person becoming a Subsidiary, any designation of a Subsidiary as a Restricted Subsidiary or as an Unrestricted Subsidiary, any acquisition or any Disposition that results in a Restricted Subsidiary ceasing to be a Subsidiary of the Parent Borrower, any Investment constituting an acquisition of assets constituting a business unit, line of business or division of another Person or any Disposition of a business unit, line of business or division of the Parent Borrower or any of the Restricted Subsidiaries, in each case whether by merger, consolidation, amalgamation or otherwise or any material restructuring of the Parent Borrower or implementation of any initiative not in the ordinary course of business.

“Spin-off” means the separation of DuPont’s electronics business into a separate public company as more fully described in the Form 10.

“Spin-off Date” has the meaning specified in Section 4.01(a).

“Spin-off Transactions” means the consummation of the Spin-off, the payment of the Special Dividend, the making of the Distribution, the execution, delivery and performance of the Separation Agreements and the transactions contemplated thereunder and the other transactions related to or in furtherance of the foregoing.

“Standard Securitization Undertakings” means representations, warranties, covenants, indemnities and guarantees of performance entered into by the Parent Borrower or any Subsidiary of the Parent Borrower which the Parent Borrower has determined in good faith to be customary in a Factoring Transaction or a Receivables Financing including those relating to the servicing of the assets of a Receivables Subsidiary, it being understood that any Receivables Repurchase Obligation shall be deemed to be a Standard Securitization Undertaking.

“Stated Maturity” means with respect to any security or Indebtedness, the date specified in such security or the documentation governing such Indebtedness as the fixed date on which the final payment of principal of such security or Indebtedness is due and payable, including pursuant to any mandatory redemption provision (but excluding any provision providing for the repurchase of such security or Indebtedness at the option of the holder thereof upon the happening of any contingency unless such contingency has occurred).

“Subject Lien” has the meaning specified in Section 7.02.

“Subordinated Indebtedness” means (a) with respect to any Borrower, any Indebtedness of such Borrower which is by its terms expressly subordinated in right of payment to the Obligations, and (b) with respect to any Guarantor, any Indebtedness of such Guarantor which is by its terms expressly subordinated in right of payment to its Guarantee of the Obligations.

“Subsidiary” means, with respect to any Person (a) any corporation, association or other business entity (other than a partnership, joint venture, limited liability company or similar entity) of which more than 50% of the total voting power of the Voting Stock is at the time of determination owned or controlled, directly or indirectly, by such Person or one or more of the other Subsidiaries of that Person or a combination thereof, (b) any partnership, joint venture, limited liability company or similar entity of which (x) more than 50% of the capital accounts, distribution rights, total equity and voting interests or general and limited partnership interests, as applicable, are owned or controlled, directly or indirectly, by such Person or one or more of the other Subsidiaries of that Person or a combination thereof, whether in the form of membership, general, special or limited partnership interests or otherwise, and (y) such Person or any Restricted Subsidiary of such Person is a controlling general partner or otherwise controls such entity and (c) for the purposes of Section 6.01, any Person that is consolidated in the consolidated financial statements of the specified Person in accordance with GAAP; provided that no Escrow Subsidiary shall be deemed to be a Subsidiary of the Parent Borrower prior to the Escrow Release Effective Time. Unless otherwise specified, all references herein to a “Subsidiary” or to “Subsidiaries” shall refer to a Subsidiary or Subsidiaries of the Parent Borrower (after giving effect to the Spin-off).

“Subsidiary Borrower” has the meaning specified in the introductory paragraph to this Agreement.

“Subsidiary Guarantor” means, collectively, the Restricted Subsidiaries of the Parent Borrower that are Guarantors.

“Subsidiary Redesignation” has the meaning specified in the definition of “Unrestricted Subsidiary”.

“Substitute Affiliate Lender” has the meaning specified in Section 10.28(a).

“Substitute Lending Office” has the meaning specified in Section 10.28(a).

“Supplemental Agent” has the meaning specified in Section 9.14(a).

“Supply Chain Finance” means arrangements with banks or other financial institutions in the ordinary course of business, pursuant to which such bank or other financial institution agrees to provide early payment to suppliers in respect of account payables or trade payables owed by the Parent Borrower or any of its Restricted Subsidiaries.

“Supported QFC” has the meaning specified in Section 9.16.

“Swap Contract” means (a) any and all rate swap transactions, basis swaps, credit derivative transactions, forward rate transactions, commodity swaps, commodity options, forward commodity contracts, equity or equity index swaps or options, bond or bond price or bond index swaps or options or forward bond or forward bond price or forward bond index transactions, interest rate options, forward foreign exchange transactions, cap transactions, floor transactions, collar transactions, currency swap transactions, cross-currency rate swap transactions, currency options, spot contracts, or any other similar transactions or any combination of any of the foregoing (including any options to enter into any of the foregoing), whether or not any such transaction is governed by or subject to any master agreement, and (b) any and all transactions of any kind, and the related confirmations, which are subject to the terms and conditions of, or governed by, any form of master agreement published by the International Swaps and Derivatives Association, Inc., any International Foreign Exchange Master Agreement, or any other master agreement, including any obligations or liabilities under any such master agreement. For the avoidance of doubt and notwithstanding the foregoing, no Permitted Bond Hedge Transaction or Permitted Warrant Transaction shall constitute a “Swap Contract”.

“Swap Obligation” means, with respect to any Guarantor, any obligation to pay or perform under any agreement, contract or transaction that constitutes a “swap” within the meaning of section 1a(47) of the Commodity Exchange Act. For the avoidance of doubt and notwithstanding the foregoing, no Convertible Indebtedness, Permitted Bond Hedge Transaction or Permitted Warrant Transaction shall constitute a “Swap Obligation”.

“Swap Termination Value” means, in respect of any one or more Swap Contracts, after taking into account the effect of any legally enforceable netting agreement relating to such Swap Contracts, (a) for any date on or after the date such Swap Contracts have been closed out and termination value(s) determined in accordance therewith, such termination value(s), and (b) for any date prior to the date referenced in clause (a), the amount(s) determined as the mark-to-market value(s) for such Swap Contracts, as determined based upon one or more mid-market or other readily available quotations provided by any recognized dealer in such Swap Contracts (which may include a Lender or any Affiliate of a Lender).

“Syndication Agent” means SMBC as syndication agent for the Closing Date Revolving Credit Facility and the Initial Term Facility.

“Tax Matters Agreement” has the meaning specified in the definition of “Separation Agreements”.

“Taxes” means all present or future taxes, levies, imposts, duties, deductions, withholdings (including backup withholding), assessments, fees or other similar charges imposed by any Governmental Authority, including any interest, additions to tax or penalties applicable thereto.

“Term Arrangers” means JPMorgan, SMBC, BofA Securities, Inc., Barclays Bank PLC, BNP Paribas, Citibank, N.A., Goldman Sachs Bank USA, Mizuho Bank, Ltd., MUFG Bank, Ltd. and HSBC Securities (USA) Inc., as joint lead arrangers and joint bookrunners for the Initial Term Facility.

“Term Benchmark” when used in reference to any Loan or Borrowing, refers to whether such Loan, or the Loans comprising such Borrowing, are bearing interest at a rate determined by reference to the Term SOFR Rate.

“Term Borrowing” means a borrowing of the same Type of Term Loan of a single Tranche from all the Lenders having Term Commitments or Term Loans of the respective Tranche on a given date (or resulting from a conversion or conversions on such date) having, in the case of Term Benchmark Loans, the same Interest Period.

“Term Commitment” means, as to each Term Lender, (a) its Initial Term Commitment, (b) its Term Commitment Increase, (c) its New Term Commitment or (d) its Specified Refinancing Term Commitment. The amount of each Lender’s Initial Term Commitment is as set forth in the definition thereof and the amount of each Lender’s other Term Commitments shall be as set forth (x) in the applicable Assignment and Assumption or (y) in the amendment or agreement relating to the respective Term Commitment Increase, New Term Commitment or Specified Refinancing Term Commitment pursuant to which such Lender shall have assumed its Term Commitment, as the case may be, as such amounts may be adjusted from time to time in accordance with this Agreement.

“Term Commitment Increase” has the meaning specified in Section 2.14(a).

“Term Facility” means a facility in respect of any Term Loan Tranche (including any Term Commitment Increase with respect to such Term Loan Tranche).

“Term Lender” means (a) at any time on or prior to the Closing Date, any Lender that has an Initial Term Commitment at such time and (b) at any time after the Closing Date, any Lender that holds Term Loans and/or Term Commitments at such time.

“Term Loan” means an advance made by any Term Lender under any Term Facility.

“Term Loan Tranche” means the respective facility and commitments utilized in making (or, where applicable, conversion of) Term Loans hereunder, with there being one tranche on the Closing Date (*i.e.* the Term Loan Tranche with respect to the Initial Term Loans and Initial Term Commitments). Additional Term Loan Tranches may be added after the Closing Date, e.g., New Term Loans, Specified Refinancing Term Loans, New Term Commitments, Extended Term Loans and Specified Refinancing Term Commitments.

“Term Note” means a promissory note executed by the Parent Borrower and payable to any Term Lender or its registered assigns, in substantially the form of Exhibit B-1 hereto, evidencing the indebtedness of the Parent Borrower to such Term Lender resulting from the Term Loans under the same Term Loan Tranche made or held by such Term Lender.

“Term SOFR Determination Day” has the meaning specified in the definition of Term SOFR Reference Rate.

“Term SOFR Rate” means, with respect to any Term Benchmark Borrowing and for any tenor comparable to the applicable Interest Period, the Term SOFR Reference Rate at approximately 5:00 a.m., Chicago time, two (2) U.S. Government Securities Business Days prior to the commencement of such tenor comparable to the applicable Interest Period, as such rate is published by the CME Term SOFR Administrator; provided that in no event shall the Term SOFR Rate be less than the Floor.

“Term SOFR Reference Rate” means, for any day and time (such day, the “Term SOFR Determination Day”), with respect to any Term Benchmark Borrowing and for any tenor comparable to the applicable Interest Period, the rate per annum published by the CME Term SOFR Administrator and identified by the Administrative Agent as the forward-looking term rate based on SOFR. If by 5:00 p.m. (New York City time) on such Term SOFR Determination Day, the “Term SOFR Reference Rate” for the applicable tenor has not been published by the CME Term SOFR Administrator and a Benchmark Replacement Date with respect to the Term SOFR Rate has not occurred, then, so long as such day is otherwise a U.S. Government Securities Business Day, the Term SOFR Reference Rate for such Term SOFR Determination Day will be the Term SOFR Reference Rate as published in respect of the first preceding U.S. Government Securities Business Day for which such Term SOFR Reference Rate was published by the CME Term SOFR Administrator, so long as such first preceding U.S. Government Securities Business Day is not more than five (5) U.S. Government Securities Business Days prior to such Term SOFR Determination Day.

“Test Period” means the most recent period of four (4) consecutive fiscal quarters of the Parent Borrower ended on or prior to such time (taken as one accounting period) in respect of which financial statements for each such quarter or fiscal year in such period are internally available (as determined in good faith by Parent Borrower).

“Threshold Amount” means the greater of (a) \$195,000,000 and (b) 15% of the EBITDA Grower Amount. For purposes of determining the Threshold Amount, the “principal amount” of the obligations of any Borrower or any Restricted Subsidiary in respect of any Swap Contract at any time shall be the Swap Termination Value (giving effect to any netting agreements) that such Borrower or such Restricted Subsidiary would be required to pay if such Swap Contract were terminated at such time.

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“Total Outstandings” means the aggregate Outstanding Amount of all Loans and all L/C Obligations.

“Total Revolving Credit Outstandings” means the aggregate Outstanding Amount of all Revolving Credit Loans and L/C Obligations.

“Tranche” means any Term Loan Tranche or any Revolving Tranche.

“Transaction Commitment Date” has the meaning specified in Section 1.02.

“Transaction Costs” has the meaning specified in the definition of “Transaction.”

“Transactions” means:

- (a) the consummation of the Spin-off Transactions;
- (b) the execution, delivery and performance by the Loan Parties of the Loan Documents to which they are a party;
- (c) the Borrowers obtaining the Facilities; and
- (d) the payment of all fees, costs and expenses incurred in connection with the transactions described in the foregoing provisions of this definition (the “Transaction Costs”).

“Transfers” has the meaning specified in the definition of “Permitted Restructuring Transactions.”

“Transformative Event” means any acquisition or similar Investment that is either (a) not permitted by the terms of the Loan Documents immediately prior to the consummation of such transaction or (b) if permitted by the terms of the Loan Documents immediately prior to the consummation of such transaction, would not provide the Parent Borrower and its Restricted Subsidiaries with adequate flexibility under the Loan Documents for the continuation and/or expansion of their combined operations following such consummation, as reasonably determined by the Borrowers acting in good faith.

“Transition Services Agreement” has the meaning specified in the definition of “Separation Agreements”.

“Type” means, with respect to a Loan, its character as a Base Rate Loan or a Term Benchmark Loan, as applicable.

“UK Bail-In Legislation” means Part I of the United Kingdom Banking Act 2009 and any other law or regulation applicable in the United Kingdom relating to the resolution of unsound or failing banks, investment firms or other financial institutions or their affiliates (otherwise than through liquidation, administration or other insolvency proceedings).

“UK Financial Institution” means any BRRD Undertaking (as such term is defined under the PRA Rulebook (as amended from time to time) promulgated by the United Kingdom Prudential Regulation Authority) or any person falling within IFPRU 11.6 of the FCA Handbook (as amended from time to time) promulgated by the United Kingdom Financial Conduct Authority, which includes certain credit institutions and investment firms, and certain affiliates of such credit institutions or investment firms.

“UK Resolution Authority” means the Bank of England or any other public administrative authority having responsibility for the resolution of any UK Financial Institution.

“Unadjusted Benchmark Replacement” means the Benchmark Replacement excluding the Benchmark Replacement Adjustment; provided that, if the Unadjusted Benchmark Replacement as so determined would be less than the Floor, the Unadjusted Benchmark Replacement will be deemed to be Floor for the purposes of this Agreement.

“Undisclosed Administration” means in relation to a Lender or its direct or indirect parent company the appointment of an administrator, provisional liquidator, conservator, receiver, trustee, custodian or other similar official by a supervisory authority or regulator under or based on the law in the country where such Person is subject to home jurisdiction supervision if applicable law requires that such appointment is not to be publicly disclosed.

“Unfunded Advances/Participations” means (a) with respect to the Administrative Agent, the aggregate amount, if any (i) made available to the Borrowers on the assumption that each Lender has made available to the Administrative Agent such Lender’s share of the applicable Borrowing available to the Administrative Agent as contemplated by Section 2.12(b) and (ii) with respect to which a corresponding amount shall not in fact have been returned to the Administrative Agent by the Borrowers or made available to the Administrative Agent by any such Lender, and (b) with respect to any L/C Issuer, the aggregate amount, if any, of amounts drawn under Letters of Credit in respect of which a Revolving Credit Lender shall have failed to make Revolving Credit Loans or L/C Advances to reimburse such L/C Issuer pursuant to Section 2.03(c).

“Unfunded Pension Liability” means the excess of a Plan’s benefit liabilities under Section 4001(a) of ERISA over the current value of such Plan’s assets, determined in accordance with assumptions used for funding the Plan pursuant to Section 412 of the Code for the applicable plan year.

“Uniform Commercial Code” or “UCC” means the Uniform Commercial Code as the same may from time to time be in effect in the State of New York; provided that if by reason of mandatory provisions of law, any or all of the perfection, effect of perfection or non-perfection, the priority or exercise of remedies with respect to any security interest in any Collateral is governed by the Uniform Commercial Code of another jurisdiction, “Uniform Commercial Code” or “UCC” means the Uniform Commercial Code as in effect from time to time in such other jurisdiction for purposes of the provisions hereof and of the other Loan Documents relating to such perfection, effect of perfection or non-perfection, priority or exercise of remedies.

“United States” and “U.S.” mean the United States of America.

“Unpaid Amount” has the meaning specified in Section 7.05(b)(ii).

“Unreimbursed Amount” has the meaning specified in Section 2.03(d)(i).

“Unrestricted Subsidiary” means:

- (1) any Subsidiary of the Parent Borrower that at the time of determination shall be designated an Unrestricted Subsidiary by the Parent Borrower in the manner provided below; and
- (2) any Subsidiary of an Unrestricted Subsidiary.

The Parent Borrower may designate any Subsidiary of the Parent Borrower (including any existing Subsidiary and any newly acquired or newly formed Subsidiary of the Parent Borrower but excluding any Borrower unless such Borrower has ceased to be a Borrower prior to the effectiveness of such designation as an Unrestricted Subsidiary) to be an Unrestricted Subsidiary; provided, however, that the Subsidiary to be so designated and its Subsidiaries are in compliance with the last paragraph of this definition and do not

at the time of designation have any Indebtedness pursuant to which the lender has recourse to any of the assets of the Parent Borrower or any of its Restricted Subsidiaries that is not a Subsidiary of the Subsidiaries to be so designated other than the Equity Interests of such Unrestricted Subsidiary; provided, further, however, that (i) immediately after giving effect to such designation no Event of Default under Sections 8.01(a), (f) or (g) shall have occurred and be continuing and (ii) the Parent Borrower shall be in Pro Forma Covenant Compliance; provided, further, however, that either:

- (a) the Subsidiary to be so designated has total consolidated assets of \$1,000 or less; or
- (b) if such Subsidiary has consolidated assets greater than \$1,000, then such designation would be permitted under Section 7.05.

The Parent Borrower may designate any Unrestricted Subsidiary to be a Restricted Subsidiary (a "Subsidiary Redesignation"); provided that (x) immediately after giving effect to such designation no Event of Default under Section 8.01(a), (f) or (g) shall have occurred and be continuing and (y) any Indebtedness of such Subsidiary and any Liens encumbering its assets at the time of such designation shall be deemed newly incurred or established, as applicable, at such time.

Any such designation by the Parent Borrower shall be evidenced to the Administrative Agent by promptly delivering to the Administrative Agent an officer's certificate certifying that such designation complied with the foregoing provisions.

Notwithstanding the foregoing, (i) no Subsidiary of the Parent Borrower may be designated an Unrestricted Subsidiary if such Subsidiary is a "Restricted Subsidiary" (or any other functionally equivalent term) under the Senior Notes or any Refinancing Notes or any Incremental Equivalent Debt or any other Indebtedness for borrowed money secured all or in part by the Collateral, in each case, with an aggregate outstanding principal amount in excess of the Threshold Amount, (ii) simultaneously with any Subsidiary being designated as a "Restricted Subsidiary" (or any functionally equivalent term) under the Senior Notes or any Refinancing Notes or any Incremental Equivalent Debt, in each case, with an aggregate outstanding principal amount in excess of the Threshold Amount, such Subsidiary shall be designated as a Restricted Subsidiary, (iii) no Unrestricted Subsidiary shall own or exclusively license any Material Intellectual Property other than pursuant to any non-exclusive licenses, sublicenses or cross-licenses or other similar intercompany disclosures thereof and (iv) no Unrestricted Subsidiary shall own any Equity Interests or Indebtedness of, or own or hold any Lien on any property of, the Parent Borrower or any other Subsidiary of the Parent Borrower that is not a Subsidiary of the Subsidiary to be so designated.

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

"U.S. Loan Party" means the Parent Borrower and each other Borrower and Subsidiary Guarantor that is a U.S. Subsidiary.

"U.S. Security Agreement" has the meaning specified in the definition of "Security Agreement".

"U.S. Special Resolution Regimes" has the meaning specified in Section 9.16.

"U.S. Subsidiary" means any Subsidiary of the Parent Borrower that is organized under the laws of the United States, any state thereof or the District of Columbia.



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“U.S. Tax Person” means any Person that is a “United States person” as defined in Section 7701(a)(30) of the Code.

“U.S. Tax Compliance Certificate” has the meaning assigned to such term in Section 3.01(g)(ii).

“Voluntary Debt Reduction” has the meaning assigned to such term in Section 2.05(b).

“Voting Stock” of any Person as of any date means the Capital Stock of such Person that is at the time entitled to vote (without regard to the occurrence of any contingency) in the election of the Board of Directors of such Person.

“Weighted Average Life to Maturity” means, when applied to any Indebtedness or Disqualified Stock or Preferred Stock, as the case may be, at any date, the number of years (and/or portion thereof) obtained by dividing (a) the sum of the products obtained by multiplying (i) the amount of each then remaining installment, sinking fund, serial maturity or other required payments of principal, including payment at final maturity, in respect of such Indebtedness or redemption or similar payment, in respect of such Disqualified Stock or Preferred Stock, by (ii) the number of years (calculated to the nearest one-twelfth) that will elapse between such date and the making of such payment; by (b) the then outstanding principal amount of such Indebtedness.

“Wholly Owned Restricted Subsidiary” means any Wholly Owned Subsidiary that is a Restricted Subsidiary.

“Wholly Owned Subsidiary” of any Person means a direct or indirect Subsidiary of such Person 100% of the outstanding Capital Stock or other ownership interests of which (other than directors’ qualifying shares or shares or interests required to be held by foreign nationals or other third parties to the extent required by applicable law) shall at the time be owned by such Person or by one or more Wholly Owned Subsidiaries of such Person.

“Working Capital” means, with respect to the Borrowers and the Restricted Subsidiaries on a consolidated basis, Consolidated Current Assets *minus* Consolidated Current Liabilities.

“Write-down and Conversion Powers” means:

- (a) with respect to any EEA Resolution Authority, the write-down and conversion powers of such EEA Resolution Authority from time to time under the Bail-In Legislation for the applicable EEA Member Country, which write-down and conversion powers are described in the EU Bail-In Legislation Schedule; and
- (b) with respect to the United Kingdom, any powers of the applicable Resolution Authority under the Bail-In Legislation to cancel, reduce, modify or change the form of a liability of any UK Financial Institution or any contract or instrument under which that liability arises, to convert all or part of that liability into shares, securities or obligations of that person or any other person, to provide that any such contract or instrument is to have effect as if a right had been exercised under it or to suspend any obligation in respect of that liability or any of the powers under that Bail-In Legislation that are related to or ancillary to any of those powers.

Section 1.02 Other Interpretive Provisions. With reference to this Agreement and each other Loan Document, unless otherwise specified herein or in such other Loan Document:

- (a) The meanings of defined terms are equally applicable to the singular and plural forms of the defined terms.
- (b) The words “herein,” “hereto,” “hereof” and “hereunder” and words of similar import when used in any Loan Document shall refer to such Loan Document as a whole and not to any particular provision thereof.
- (c) References in this Agreement to an Exhibit, Schedule, Article, Section, clause or subclause refer (A) to the appropriate Exhibit or Schedule to, or Article, Section, clause or subclause in this Agreement or (B) to the extent such references are not present in this Agreement, to the Loan Document in which such reference appears.
- (d) The terms “include,” “includes” and “including” shall be deemed to be followed by the phrase “without limitation.”
- (e) The term “documents” includes any and all instruments, documents, agreements, certificates, notices, reports, financial statements and other writings, however evidenced, whether in physical or electronic form.
- (f) Any reference herein to any Person shall be construed to include such Person’s successors and assigns.
- (g) In the computation of periods of time from a specified date to a later specified date, the word “from” means “from and including;” the words “to” and “until” each mean “to but excluding;” and the word “through” means “to and including.”
- (h) Section headings herein and in the other Loan Documents are included for convenience of reference only and shall not affect the interpretation of this Agreement or any other Loan Document.
- (i) With respect to any (x) Investment or acquisition, merger, amalgamation or similar transaction (including with respect to any proposed Investment or acquisition pursuant to Rule 2.7 of The City Code on Takeovers and Mergers (or a similar arrangement)) for which consummation is not conditioned on the availability of, or on obtaining, third party financing, (y) redemption, repayment, defeasance, satisfaction, discharge, repurchase or refinancing of Indebtedness, Disqualified Stock or Preferred Stock with respect to which a notice of repayment (or similar notice), which may be conditional, is required in advance thereof, and (z) any Restricted Payment effected to consummate the transactions described in the foregoing clauses (x) and (y) (each, a “Limited Condition Transaction”), in each case for purposes of determining:
  - (1) whether any Indebtedness (including Acquired Indebtedness), Disqualified Stock or Preferred Stock that is being Incurred in connection with such Limited Condition Transaction is permitted to be incurred in compliance with Section 7.01;
  - (2) whether any Lien being Incurred in connection with such Limited Condition Transaction is permitted to be Incurred in accordance with Section 7.02 or the definition of “Permitted Liens”;
  - (3) whether any other transaction or action undertaken or proposed to be undertaken to consummate such Limited Condition Transaction (including any Restricted Payments, Dispositions, fundamental changes set forth in Section 7.03 or designations of Restricted Subsidiaries or Unrestricted Subsidiaries) complies with the covenants or agreements contained in this Agreement;

(4) any calculation of the ratios, baskets or financial metrics, including Consolidated First Lien Net Leverage Ratio, Consolidated Total Net Leverage Ratio, Consolidated Secured Net Leverage Ratio, Consolidated Net Income, Consolidated EBITDA, the EBITDA Grower Amount, Consolidated Total Assets, Consolidated Interest Expense and/or Pro Forma Cost Savings and baskets determined by reference to Consolidated Net Income, Consolidated EBITDA, the EBITDA Grower Amount or Consolidated Total Assets, and whether a Default or Event of Default exists in connection with the foregoing;

(5) other than in connection with any L/C Credit Extension or any Revolving Credit Borrowing, whether any Default or Event of Default (or any specified Default or Event of Default) has occurred, is continuing or would result from such Investment, acquisition or repayment, repurchase or refinancing of Indebtedness;

(6) other than in connection with any L/C Credit Extension or any Revolving Credit Borrowing, whether any representations and warranties (or any specified representations and warranties) are true and correct; and

(7) whether any condition precedent to the Incurrence of Indebtedness (including Acquired Indebtedness), Disqualified Stock, Preferred Stock or Liens, in each case, that is being Incurred in connection with Limited Condition Transaction is satisfied,

at the option of the Borrower Representative, the date that the definitive agreement (or other relevant definitive documentation) for, announcement (public or otherwise) of, or notice, declaration of dividend or similar event with respect to, such Limited Condition Transaction (the "Transaction Commitment Date") may be used as the applicable date of determination, as the case may be, in each case with such pro forma adjustments as are appropriate and consistent with the pro forma adjustment provisions set forth in the definition of "Pro Forma Basis" or "Consolidated EBITDA". For the avoidance of doubt, if the Parent Borrower elects to use the Transaction Commitment Date as the applicable date of determination in accordance with the foregoing, (a) any fluctuation or change (i) in the Consolidated First Lien Net Leverage Ratio, Consolidated Total Net Leverage Ratio, Consolidated Secured Net Leverage Ratio, Consolidated Net Income, Consolidated EBITDA, the EBITDA Grower Amount, Consolidated Total Assets and/or Pro Forma Cost Savings of the Parent Borrower and (ii) with respect to the applicable exchange rate utilized in calculating compliance with any dollar-based provision of this Agreement, from the Transaction Commitment Date to the date of consummation of such Limited Condition Transaction will not be taken into account.

(j) (i) For purposes of determining compliance with any provision which requires that no Default, Event of Default or specified Default or Event of Default, as applicable, has occurred, is continuing or would result from any Limited Condition Transaction, such condition shall be deemed satisfied so long as no Default, Event of Default or specified Default or Event of Default, as applicable, exists on the Transaction Commitment Date (for the avoidance of doubt, subject to Section 1.02(i)(5)), (ii) for purposes of determining whether the bring down of representations and warranties (or specified representations and warranties) in connection with any Limited Condition Transaction, as applicable, are true and correct, such condition shall be deemed satisfied so long as such representation and warranties, as applicable, are true and correct in all material respects (and in all respects if any such representation or warranty is already qualified by materiality) on the Transaction Commitment Date (for the avoidance of doubt, subject to Section 1.02(i)(6)), and (iii) until such Limited Condition Transaction is consummated or such definitive agreements (or other relevant definitive binding documentation) are terminated (or conditions in any conditional notice can no longer be met or public announcements with respect thereto are withdrawn or there is a public announcement to the effect that the transaction contemplated by such definitive agreements will no longer be consummated), such Limited Condition Transaction and all transactions proposed to be

undertaken in connection therewith (to the extent reasonably necessary to consummate such Limited Condition Transaction) (including the incurrence of Indebtedness and Liens) will be given pro forma effect when determining compliance of other transactions (including the incurrence of Indebtedness and Liens unrelated to such Limited Condition Transaction) that are consummated after the Transaction Commitment Date and on or prior to the date of consummation of such Limited Condition Transaction and any such transactions (including any incurrence of Indebtedness and the use of proceeds thereof) will be deemed to have occurred on the date the definitive agreements (or other relevant definitive binding documentation) are entered into or public announcement is made and deemed to be outstanding thereafter for purposes of calculating any baskets or ratios under the Loan Documents after the date of such agreement and before the date of consummation of such Limited Condition Transaction. For purposes hereof, the Maximum Fixed Repurchase Price of any Disqualified Stock or Preferred Stock that does not have a fixed repurchase price shall be calculated in accordance with the terms of such Disqualified Stock or Preferred Stock as if such Disqualified Stock or Preferred Stock were purchased on any date on which Consolidated Funded Indebtedness shall be required to be determined pursuant to this Agreement, and if such price is based upon, or measured by, the fair market value of such Disqualified Stock or Preferred Stock, such fair market value shall be determined reasonably and in good faith by the Parent Borrower.

(k) For the avoidance of doubt, references to Secured Cash Management Agreement and Secured Hedge Agreement shall be deemed to include agreements relating to services in favor of a Restricted Subsidiary of the Loan Parties.

(l) In the event that any financial statements or Compliance Certificate delivered pursuant to Section 6.01 or 6.02 are, or are shown to be, inaccurate and such inaccuracy, if corrected, would have led to a higher Applicable Commitment Fee or Applicable Rate for any period (an “Applicable Period”) than the Applicable Commitment Fee or Applicable Rate applied for such Applicable Period, then (i) the Parent Borrower shall promptly (and in no event later than five (5) Business Days thereafter (or such longer period agreed by the Administrative Agent in its reasonable discretion)) deliver to the Administrative Agent a correct Compliance Certificate for such Applicable Period, (ii) the Applicable Commitment Fee and Applicable Rate shall be determined by reference to the corrected Compliance Certificate and (iii) the applicable Borrowers shall pay to the Administrative Agent promptly upon demand (and in no event later than five (5) Business Days after such corrected Compliance Certificate was required to be delivered (or such longer period agreed by the Administrative Agent in its reasonable discretion)) any additional commitment fee, interest and/or Letter of Credit fee owing as a result of such increased Applicable Commitment Fee and/or Applicable Rate for such Applicable Period, which payment shall be promptly applied by the Administrative Agent in accordance with the terms hereof. Notwithstanding anything in the contrary in this Agreement, any additional commitment fee, interest and/or Letter of Credit fee shall not be due and payable until written demand is made for such payment pursuant to this Section 1.02(l). Nothing contained in this paragraph shall in any way limit the rights of the Administrative Agent or the Lenders with respect to Sections 2.08(b) and 8.01; provided that any underpaid amount of commitment fee, interest and/or Letter of Credit fee as a result of any inaccuracy in any financial statements or Compliance Certificate delivered pursuant to Section 6.01 or 6.02 shall not be deemed overdue (and no amounts shall accrue at the Default Rate pursuant to Section 2.08(a)) at any time prior to the date that payment is required as set forth above following written demand, and any such underpayment shall not in itself constitute a Default or Event of Default under Section 8.01 (whether retroactive or otherwise) so long as such additional interest or fees are paid within the time period set forth above.

(m) In the event that any financial statements or Compliance Certificate delivered pursuant to Section 6.01 or 6.02 are, or are shown to be, inaccurate and such inaccuracy, if corrected, would have led to a lower Applicable Commitment Fee or Applicable Rate for any Applicable Period than the Applicable Commitment Fee or Applicable Rate applied for such Applicable Period, then upon the Parent Borrower’s delivery to the Administrative Agent of a corrected Compliance Certificate for such Applicable Period, (i)

the Applicable Commitment Fee and Applicable Rate shall be determined by reference to the corrected Compliance Certificate, (ii) the Administrative Agent shall promptly (and in no event later than five (5) Business Days after such corrected Compliance Certificate was delivered) notify the applicable Lenders and demand the return of any commitment fee, interest and/or Letter of Credit fee overpaid by the applicable Borrowers as a result of such decreased Applicable Commitment Fee and/or Applicable Rate for such Applicable Period and (iii) the applicable Lenders shall pay to the Administrative Agent promptly upon demand (and in no event later than five (5) Business Days after such demand) any such overpaid commitment fee, interest and/or Letter of Credit fee, which payment shall be promptly returned to the applicable Borrowers by the Administrative Agent in accordance with the terms hereof.

(n) Notwithstanding paragraph (j) above, the “cash cover” (or the appropriate portion thereof) shall be released to the extent that such cash cover is no longer needed and consistent with Section 2.16(d).

(o) For the purposes of Sections 2.05(b)(ii), 6.12, 7.03, 7.04 and 7.05, an allocation of assets to a division of a Restricted Subsidiary that is a limited liability company, or an allocation of assets to a series of a Restricted Subsidiary that is a limited liability company, shall be treated as a transfer of assets from one Restricted Subsidiary to another Restricted Subsidiary.

(p) The phrase “permitted by” and the phrase “not prohibited by” shall be synonymous, and any transaction not specifically prohibited by the terms of the Loan Documents shall be deemed to be permitted by the Loan Documents.

(q) For purposes of this Agreement, Loans may be classified and referred to by Class (e.g., a “Revolving Loan”) or by Type (e.g., a “Term Benchmark Loan”) or by Class and Type (e.g., a “Term Benchmark Revolving Loan”). Borrowings also may be classified and referred to by Class (e.g., a “Revolving Borrowing”) or by Type (e.g., a “Term Benchmark Borrowing”) or by Class and Type (e.g., a “Term Benchmark Revolving Borrowing”).

#### Section 1.03 Accounting Terms.

(a) All accounting terms not specifically or completely defined herein shall be construed in conformity with, and all financial data (including financial ratios and other financial calculations) required to be submitted pursuant to this Agreement shall be prepared in conformity with, GAAP applied on a consistent basis, as in effect from time to time, except as otherwise specifically prescribed herein, in any other Loan Document or as disclosed to the Administrative Agent.

(b) If at any time any change in GAAP or the application thereof would affect the computation or interpretation of any financial ratio, basket, requirement or other provision set forth in any Loan Document, and either the Borrowers or the Required Lenders shall so request, the Administrative Agent and the Borrowers shall negotiate in good faith to amend such ratio, basket, requirement or other provision to preserve the original intent thereof in light of such change in GAAP or the application thereof (subject to the approval of the Required Lenders not to be unreasonably withheld, conditioned or delayed) (provided that any change affecting the computation of the ratio set forth in Section 7.08 shall be subject solely to the approval of the Required Revolving Lenders (not to be unreasonably withheld, conditioned or delayed) and the Borrowers); provided that, until so amended, (i) (A) such ratio, basket, requirement or other provision shall continue to be computed or interpreted in accordance with GAAP or the application thereof prior to such change therein and (B) the Borrowers shall provide to the Administrative Agent and the Lenders a written reconciliation in form and substance reasonably satisfactory to the Administrative Agent, between calculations of such ratio, basket, requirement or other provision made before and after giving effect to such change in GAAP or the application thereof or (ii) the Borrowers may elect to fix GAAP (for purposes of such ratio, basket, requirement or other provision) as of another later date notified in writing to the Administrative Agent from time to time.

(c) Notwithstanding anything to the contrary herein or any change in GAAP before or after the Closing Date that would require lease obligations that would be characterized as operating leases to be classified and accounted for as capital leases, finance leases or otherwise reflected on the Loan Parties' consolidated balance sheet, for the purposes of determining compliance with any covenant contained herein, such obligations shall be determined based on GAAP as in effect on December 31, 2018, and the foregoing reconciliation shall not be required.

(d) It is understood and agreed that, with respect to fiscal periods commencing on or after January 1, 2018, the impact of FASB ASC 606 and FASB ASC 340-40 on revenue recognition and amortization of associated costs and expenses shall be given effect for all purposes under this Agreement, and the foregoing reconciliation shall not be required.

(e) Notwithstanding anything to the contrary contained herein, all such financial statements shall be prepared, and all financial covenants contained herein or in any other Loan Document shall be calculated, in each case, without giving effect to any election under FASB ASC 825 (or any similar accounting principle) permitting a Person to value its financial liabilities at the fair value thereof.

Section 1.04 Rounding. Any financial ratios required to be maintained by the Borrowers, or satisfied in order for a specific action to be permitted, under this Agreement shall be calculated by dividing the appropriate component by the other component, carrying the result to one place more than the number of places by which such ratio is expressed herein and rounding the result up or down to the nearest number (with a rounding-up if there is no nearest number).

Section 1.05 References to Agreements and Laws. Unless otherwise expressly provided herein, (a) references to Organization Documents, agreements (including the Loan Documents) and other contractual instruments shall be deemed to include all subsequent amendments, restatements, extensions, supplements and other modifications thereto, but only to the extent that such amendments, restatements, extensions, supplements and other modifications are permitted by any Loan Document and (b) references to any Law shall include all statutory and regulatory provisions consolidating, amending, replacing, supplementing or interpreting such Law.

Section 1.06 Times of Day. Unless otherwise specified, all references herein to times of day shall be references to New York City time (daylight savings or standard, as applicable).

Section 1.07 Timing of Payment or Performance. When the payment of any obligation or the performance of any covenant, duty or obligation is stated to be due or performance required on a day which is not a Business Day, the date of such payment (other than as specifically provided in Section 2.12 or as described in the definition of Interest Period or Interest Payment Date) or performance shall extend to the immediately succeeding Business Day.

Section 1.08 [Reserved].

Section 1.09 Letter of Credit Amounts. Unless otherwise specified herein, the amount of a Letter of Credit at any time shall be deemed to be the stated amount of such Letter of Credit in effect at such time after giving effect to any expiration periods applicable thereto; provided, however, that (a) if any presentation of drawing documents shall have been made on or prior to the expiration date of such Letter of Credit and the applicable L/C Issuer shall not yet have honored such drawing or given notice of dishonor, the amount of such Letter of Credit that is the subject of such drawing shall be treated as still outstanding and (b) with respect to any Letter of Credit that, by its terms or the terms of any Issuer Document related thereto, provides for one or more automatic increases in the stated amount thereof, the amount of such Letter of Credit shall be deemed to be the maximum stated amount of such Letter of Credit after giving effect to all such increases, whether or not such maximum stated amount is in effect at such time.

Section 1.10 Pro Forma Calculations. Notwithstanding anything to the contrary herein (subject to Section 1.02(i)), the Consolidated First Lien Net Leverage Ratio, the Consolidated Secured Net Leverage Ratio, the Consolidated Total Net Leverage Ratio, the EBITDA Grower Amount, Consolidated EBITDA, Consolidated Net Income and Consolidated Total Assets shall be calculated (including for purposes of Sections 2.14 and 2.15) on a Pro Forma Basis with respect to each Specified Transaction occurring during the applicable four quarter period to which such calculation relates, and/or subsequent to the end of such four-quarter period (including, in each case, for purposes of Sections 2.14 and 2.15) on a Pro Forma Basis with respect to each Specified Transaction occurring during the applicable four quarter period to which such calculation relates, and/or subsequent to the end of such four-quarter period; provided that notwithstanding the foregoing, when calculating the Consolidated First Lien Net Leverage Ratio or Consolidated Total Net Leverage Ratio for purposes of (a) determining the applicable percentage of Excess Cash Flow for purposes of Section 2.05(b), (b) the Applicable Commitment Fee and (c) determining actual compliance (and not Pro Forma Compliance or compliance on a Pro Forma Basis) with the Financial Covenant, any Specified Transaction and any related adjustment contemplated in the definition of Pro Forma Basis (and corresponding provisions of the definition of Consolidated EBITDA) that occurred subsequent to the end of the applicable four quarter period shall not be given Pro Forma Effect.

Section 1.11 Calculation of Baskets. If any of the baskets set forth in this Agreement are exceeded solely as a result of fluctuations to EBITDA Grower Amount and/or Consolidated Total Assets for the most recently completed fiscal quarter after the last time such baskets were calculated for any purpose under this Agreement, such baskets will not be deemed to have been exceeded solely as a result of such fluctuations.

Section 1.12 Agreed Security Principles. The Collateral Documents and each other guaranty and security document delivered or to be delivered under this Agreement and any obligation to enter into such document or obligation by any Non-U.S. Subsidiary shall be subject in all respects to the Agreed Security Principles set forth on Schedule 1.12.

Section 1.13 Foreign Loan Party Provisions. This Agreement and all of the other Loan Documents shall be subject in all respects to the Foreign Loan Party Provisions set forth in Schedule 1.13 (as may be supplemented pursuant to Section 10.01 or as otherwise agreed to by the Administrative Agent).

Section 1.14 Borrower Representative. Each Borrower hereby designates the Parent Borrower as its Borrower Representative. The Borrower Representative will be acting as agent on each Borrower's behalf for the purposes of issuing notices of Borrowing and notices of conversion/continuation of any Loans pursuant to Section 2.02 or similar notices, giving instructions with respect to the disbursement of the proceeds of the Loans, selecting interest rate options, requesting Letters of Credit, giving and receiving all other notices and consents hereunder or under any of the other Loan Documents, entering into amendments, waivers, supplements or other modifications with respect to any Loan Document, and taking all other actions (including in respect of compliance with covenants and certifications) on behalf of any Borrower or the Borrowers under the Loan Documents. The Parent Borrower hereby accepts such appointment. Each Borrower agrees that each notice, election, representation and warranty, covenant, agreement and undertaking made on its behalf by the Borrower Representative shall be deemed for all purposes to have been made by such Borrower and shall be binding upon and enforceable against such Borrower to the same extent as if the same had been made directly by such Borrower. Each Borrower hereby releases the Parent Borrower to the extent possible from any restrictions on representing several persons and self-dealing applicable to it under any applicable law. The Borrowers may appoint a different (or additional) Person as Borrower Representative at any time by delivering written notice to the Administrative Agent. Notwithstanding anything herein to the contrary, any notice, agreement, document, or other communication, or any action or obligation, in each case, that is required by this Agreement or any other Loan Document to be provided or taken by the Borrower Representative or the Parent Borrower shall be deemed to be valid or satisfied, as applicable, if given, taken, delivered or otherwise satisfied by any Borrower.

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Section 1.15 Additional Borrowers.

(a) The Borrower Representative may at any time, and from time to time, after the Closing Date, upon not less than ten (10) Business Days' notice (or such shorter period as may be agreed by the Administrative Agent in its sole discretion), by delivery to the Administrative Agent of a Borrower Designation Agreement duly executed by such Borrower and a specified Wholly Owned Restricted Subsidiary organized in the United States, designate such Wholly Owned Restricted Subsidiary as a "Subsidiary Borrower" for purposes of this Agreement. Each Subsidiary Borrower shall remain a Wholly Owned Restricted Subsidiary so long as it remains a Borrower in accordance with the terms of this Agreement. Such designation shall become effective upon the execution and delivery to the Administrative Agent of (i) the aforementioned executed Borrower Designation Agreement, (ii) up-to-date certificates and Organization Documents in respect of such Subsidiary, similar to those delivered pursuant to Section 4.01(b), (iii) all amendments or joinders to this Agreement, any Revolving Credit Notes issued and any other Loan Document deemed reasonably necessary by the Administrative Agent to accommodate the joinder of such Restricted Subsidiary as a Borrower hereunder and (iv) if such Subsidiary is not already a Guarantor, all Collateral Documents, guarantees, opinions and other documents and instruments as such Subsidiary shall be required to deliver to become a Guarantor (and if not already constituting Collateral, a pledge of 100% of the Capital Stock in such Subsidiary Borrower) and such other documents in form, content and scope reasonably satisfactory to the Administrative Agent as may be reasonably required by the Administrative Agent and all documentation and other information required by regulatory authorities under applicable "know your customer" and anti-money laundering rules and regulations. The Administrative Agent shall promptly notify each Lender of each such designation by a Borrower, the identity of the respective Subsidiary and the effective date of such joinder. Any Subsidiary Borrower shall continue to be a Borrower and a party hereunder until the Borrower Representative shall have executed and delivered to the Administrative Agent a Borrower Termination Agreement with respect to such Borrower, whereupon such Borrower shall cease to be a Borrower and a party hereunder. Notwithstanding the preceding sentence, (x) no Borrower Designation Agreement shall become effective as to any Subsidiary Borrower if it shall be unlawful for such Subsidiary to become a Borrower hereunder or for any Lender to make Loans to such Subsidiary as provided herein and (y) no Borrower Termination Agreement will become effective as to any Subsidiary Borrower until all Loans made to such Subsidiary shall have been repaid and all amounts payable by such Subsidiary in respect of interest and/or fees (and, to the extent notified by the Administrative Agent or any Lender, any other amounts payable under this Agreement by such Subsidiary) shall have been paid in full; provided that such Borrower Termination Agreement shall be effective to terminate the right of such Subsidiary to request or receive further Borrowings under this Agreement.

(b) The Obligations of the Parent Borrower and each Subsidiary Borrower shall be joint and several in nature and subject to the provisions of Section 10.24.

(c) [Reserved].

Section 1.16 Interest Rates; Benchmark Notification. The interest rate on a Loan may be derived from an interest rate benchmark that may be discontinued or is, or may in the future become, the subject of regulatory reform. Upon the occurrence of a Benchmark Transition Event and its related Benchmark Replacement Date, Section 3.04(b) provides a mechanism for determining an alternative rate of interest. The Administrative Agent does not warrant or accept any responsibility for, and shall not have any liability with respect to, the administration, submission, performance or any other matter related to any interest rate used in this Agreement, or with respect to any alternative or successor rate thereto, or



replacement rate thereof, including, without limitation, whether the composition or characteristics of any such alternative, successor or replacement reference rate will be similar to, or produce the same value or economic equivalence of, the existing interest rate being replaced or have the same volume or liquidity as did any existing interest rate prior to its discontinuance or unavailability. The Administrative Agent and its affiliates and/or other related entities may engage in transactions that affect the calculation of any interest rate used in this Agreement or any alternative, successor or alternative rate (including any Benchmark Replacement) and/or any relevant adjustments thereto, in each case, in a manner adverse to the Borrowers. The Administrative Agent may select information sources or services in its reasonable discretion in accordance with the provisions set forth herein to ascertain any interest rate used in this Agreement, any component thereof, or rates referenced in the definition thereof, in each case pursuant to the terms of this Agreement, and shall have no liability to the Borrower, any Lender or any other person or entity for damages of any kind, including direct or indirect, special, punitive, incidental or consequential damages, costs, losses or expenses (whether in tort, contract or otherwise and whether at law or in equity), for any error or calculation of any such rate (or component thereof) provided by any such information source or service.

## ARTICLE II

### **THE COMMITMENTS AND CREDIT EXTENSIONS**

#### Section 2.01 The Loans.

(a) The Initial Term Borrowing. Subject to the terms and conditions set forth herein, each Term Lender with an Initial Term Commitment severally agrees to make a single loan denominated in Dollars (the “Initial Term Loans”) to the Parent Borrower on the Closing Date in an amount not to exceed such Term Lender’s Initial Term Commitment. The Initial Term Borrowing shall consist of Initial Term Loans made simultaneously by the Term Lenders in accordance with their respective Initial Term Commitments. Amounts borrowed under this Section 2.01(a) and subsequently repaid or prepaid may not be reborrowed (it being understood, however, that prepayments will be taken into account for purposes of any Prepayment-Based Incremental Facility to the extent provided by Section 2.14). Initial Term Loans may be Base Rate Loans or Term Benchmark Loans as further provided herein.

(b) The Revolving Credit Borrowings. Subject to the terms and conditions set forth herein, each Revolving Credit Lender severally agrees to make loans denominated in Dollars (each such loan, a “Revolving Credit Loan”) to the Parent Borrower and the applicable Subsidiary Borrowers from time to time after the Closing Date, on any Business Day until and excluding the Business Day preceding the Maturity Date for the Revolving Credit Facility, in an aggregate amount not to exceed at any time outstanding the amount of such Lender’s Revolving Credit Commitment; provided, however, that after giving effect to any Revolving Credit Borrowing, (i) the Total Revolving Credit Outstandings shall not exceed the Revolving Credit Facility and (ii) the aggregate Outstanding Amount of the Revolving Credit Loans of any Lender, *plus* such Lender’s Pro Rata Share of the Outstanding Amount of all L/C Obligations shall not exceed such Lender’s Revolving Credit Commitment. Within the limits of each Lender’s Revolving Credit Commitment, and subject to the other terms and conditions hereof, the Borrowers may borrow under this Section 2.01(b), prepay under Section 2.05, and reborrow under this Section 2.01(b). Each Revolving Credit Borrowing shall be comprised entirely of Base Rate Loans or Term Benchmark Loans. To the extent that any portion of the Revolving Credit Facility has been refinanced with one or more new revolving credit facilities constituting Specified Refinancing Debt, each Revolving Credit Borrowing (including any deemed Revolving Credit Borrowings made pursuant to Section 2.03) shall be allocated pro rata among the Revolving Tranches.

(c) After the Closing Date, subject to and upon the terms and conditions set forth herein, each Lender with a Term Commitment (other than an Initial Term Commitment) with respect to any Tranche of Term Loans (other than Initial Term Loans) severally agrees to make a Term Loan under such Tranche to the Borrowers in an amount not to exceed such Term Lender's Term Commitment under such Tranche on the date of incurrence thereof, which Term Loans under such Tranche shall be incurred pursuant to a single drawing on the date set forth for such incurrence. Such Term Loans may be Term Benchmark Loans or Base Rate Loans as further provided herein. Once repaid, Term Loans incurred hereunder may not be reborrowed (it being understood, however, that prepayments will be taken into account for purposes of any Prepayment-Based Incremental Facility to the extent provided by Section 2.14).

Section 2.02 Borrowings, Conversions and Continuations of Loans.

(a) Each Term Borrowing, each Revolving Credit Borrowing, and each continuation of Term Benchmark Loans shall be made upon irrevocable notice by the Borrowers to the Administrative Agent. Each such notice must be in writing and must be received by the Administrative Agent not later than (i) in the case of a Term Borrowing, 12:00 p.m. (New York City time) (A) three (3) Business Days prior (or in the case of any such Borrowing to be made on the Closing Date, two (2) Business Days prior) to the requested date of any Borrowing of, or continuation of, Term Benchmark Loans (which requested date must be a Business Day for the Administrative Agent and Lenders), and (B) on the date of any Borrowing of, or continuation of, or conversion into, Base Rate Loans and (ii) in the case of a Revolving Credit Borrowing, 12:00 p.m. (New York City time) (A) three (3) Business Days prior to the requested date of any Borrowing of, or continuation of, Term Benchmark Loans, and (B) on the date of any Borrowing of, or continuation of, or conversion into, Base Rate Loans (which requested date must be a Business Day for the Administrative Agent and Lenders). Each notice pursuant to this Section 2.02(a) shall be delivered to the Administrative Agent in the form of a written Committed Loan Notice with respect to Revolving Credit Loans or Initial Term Loans, as applicable, appropriately completed and signed by a Responsible Officer of a Borrower.

Each Borrowing of, conversion to or continuation of Term Benchmark Loans shall be (x) in a principal amount of \$1,000,000, or (y) a whole multiple of \$100,000 in excess thereof. Except as provided in Section 2.03(d), each Borrowing of, or conversion to, Base Rate Loans shall be (x) in a principal amount of \$500,000, or (y) a whole multiple of \$100,000 in excess thereof.

Each Committed Loan Notice shall specify (I) the identity of the Borrower (or Borrowers) requesting the Credit Extension, (II) whether the Borrowers (or the applicable Borrower) are requesting a Term Borrowing, a Revolving Credit Borrowing, a conversion of a Tranche of Term Loans, Specified Refinancing Revolving Loans or Revolving Credit Loans from one Type to another, or a continuation of Term Benchmark Loans, (III) the requested date of the Borrowing, conversion or continuation, as the case may be (which shall be a Business Day), (IV) the principal amount of Loans to be borrowed, converted or continued, (V) the Type of Loans to be borrowed or to which existing Tranche of Term Loans, Specified Refinancing Revolving Loans or Revolving Credit Loans are to be converted and (VI) if applicable, the duration of the Interest Period with respect thereto. If the Borrowers (or the applicable Borrower) fail to specify a Type of Loan in a Committed Loan Notice, or if the Borrowers (or the applicable Borrower) fail to give a timely notice requesting a conversion or continuation of Term Benchmark Loans, then such Loans shall be made as, or converted to, Base Rate Loans. Any such automatic conversion or continuation pursuant to the immediately preceding sentence shall be effective as of the last day of the Interest Period then in effect with respect to the applicable Term Benchmark Loans. If a Borrower requests a Borrowing of, conversion to, or continuation of Term Benchmark Loans in any such Committed Loan Notice, but fails to specify an Interest Period, it will be deemed to have specified an Interest Period of one (1) month.

(b) Following receipt of a Committed Loan Notice, the Administrative Agent shall promptly notify each applicable Lender of the amount of its ratable share of the applicable Tranche of Term Loans, Specified Refinancing Revolving Loans or Revolving Credit Loans, and if no timely notice of a conversion or continuation of Term Benchmark Loan is provided by the Borrowers, the Administrative Agent shall notify each Lender of the details of any automatic conversion to Base Rate Loans or continuation of Term Benchmark Loans with an Interest Period of one (1) month as described in Section 2.02(a). In the case of a Term Borrowing or a Revolving Credit Borrowing, each Appropriate Lender shall make the amount of its Loan available to the Administrative Agent in immediately available funds at the Administrative Agent's Office not later than 11:00 a.m. (New York City time) (or 2:00 p.m. (New York City time), in the case of Base Rate Loans). Each Lender may, at its option, make any Loan available to the Borrowers (or the applicable Borrower) by causing any foreign or domestic branch or Affiliate of such Lender to make such Loan; provided that any exercise of such option shall not affect the obligation of the Borrowers to repay such Loan in accordance with the terms of this Agreement. Upon satisfaction of the applicable conditions set forth in Section 4.02 (or, if such Borrowing is the initial Credit Extension, Section 4.01), the Administrative Agent shall make all funds so received available to the Borrowers (or the applicable Borrower) in like funds as received by the Administrative Agent either by (i) crediting the account of the Borrowers (or the applicable Borrower) on the books of the Administrative Agent with the amount of such funds or (ii) wire transfer of such funds, in each case in accordance with instructions provided to (and reasonably acceptable to) the Administrative Agent by the Borrowers (or the applicable Borrower); provided, however, that if, on the date the Committed Loan Notice with respect to such Borrowing is given by the Borrowers, there are L/C Borrowings outstanding, then the proceeds of such Borrowing shall be applied, first, to the payment in full of any such L/C Borrowings, and second, to the Borrowers as provided above.

(c) Except as otherwise provided herein, a Term Benchmark Loan may be continued or converted only on the last day of an Interest Period for such Term Benchmark Loan unless the Borrowers pay the amount due under Section 3.06 in connection therewith. During the existence of an Event of Default, at the election of the Administrative Agent or the Required Lenders, no Loans may be requested as, converted to, or continued as, Term Benchmark Loans having an Interest Period in excess of one (1) month.

(d) The Administrative Agent shall promptly notify the Borrowers and the applicable Lenders of the interest rate applicable to any Interest Period for Term Benchmark Loans upon determination of such interest rate. The determination of the Term Benchmark by the Administrative Agent shall be conclusive in the absence of manifest error.

(e) After giving effect to all Term Borrowings, all Revolving Credit Borrowings, all conversions of Term Loans or Revolving Credit Loans from one Type to another, and all continuations of Term Loans or Revolving Credit Loans of the same Type, there shall not be more than ten (10) Interest Periods in effect.

(f) The failure of any Lender to make the Loan to be made by it as part of any Borrowing shall not relieve any other Lender of its obligation, if any, hereunder to make its Loan on the date of such Borrowing, but no Lender shall be responsible for the failure of any other Lender to make the Loan to be made by such other Lender on the date of any Borrowing, which for the avoidance of doubt does not limit such Lender's obligations under Section 2.17.

#### Section 2.03 Letters of Credit.

##### (a) The Letter of Credit Commitment.

(i) Subject to the terms and conditions set forth herein, (A) each L/C Issuer agrees, in reliance upon (among other things) the agreements of the other Revolving Credit Lenders set forth in this Section 2.03, (1) from time to time on any Business Day during the period from the Closing Date until the Letter of Credit Expiration Date, to issue Letters of Credit for the account of a

Borrower or any Restricted Subsidiary (provided that the Borrowers hereby irrevocably agree to reimburse the applicable L/C Issuer for any and all amounts drawn on any Letters of Credit issued for the account of another Borrower or any Restricted Subsidiary on a joint and several basis with such Restricted Subsidiary and each Borrower hereby acknowledges that the issuance of Letters of Credit for the account of its Restricted Subsidiaries inures to the benefit of the Borrowers, and that the Borrowers' business derives benefits from the businesses of such Restricted Subsidiaries) and to amend or renew Letters of Credit previously issued by it, in accordance with Section 2.03(c), and (2) to honor drafts under the Letters of Credit; provided that each L/C Issuer may issue a Letter of Credit through any affiliate and (B) the Revolving Credit Lenders severally agree to participate in Letters of Credit issued for the account of a Borrower or any Restricted Subsidiary and any drawings thereunder; provided that no L/C Issuer shall be obligated to make any L/C Credit Extension with respect to any Letter of Credit, and no Lender shall be obligated to participate in any Letter of Credit, if as of the date of such L/C Credit Extension (u) the Total Revolving Credit Outstandings in respect of any Revolving Tranche would exceed the Revolving Credit Commitments of such Revolving Tranche, (v) the Total Revolving Credit Outstandings would exceed the aggregate Revolving Credit Commitments, (w) the aggregate Outstanding Amount of the Revolving Credit Loans of any Lender, *plus* such Lender's Pro Rata Share of the Outstanding Amount of all L/C Obligations, would exceed such Lender's Revolving Credit Commitment and (x) the Outstanding Amount of the L/C Obligations would exceed the Letter of Credit Sublimit; provided, further, that no L/C Issuer identified Schedule 1.01(c) shall have any obligation to make an L/C Credit Extension if, after giving effect thereto, the L/C Obligations in respect of Letters of Credit issued by such L/C Issuer would exceed the amount set forth opposite such L/C Issuer's name on Schedule 1.01(c). Within the foregoing limits and subject to the terms and conditions hereof, the Borrowers' ability to obtain Letters of Credit shall be fully revolving, and accordingly the Borrowers may, during the foregoing period, obtain Letters of Credit to replace Letters of Credit that have expired or been terminated or that have been drawn upon and reimbursed. All Letters of Credit shall be denominated in Dollars.

(ii) No L/C Issuer shall be under any obligation to issue any Letter of Credit (and, in the case of clause (B) and (C), no L/C Issuer shall issue any Letter of Credit) if:

(A) any order, judgment or decree of any Governmental Authority shall by its terms purport to enjoin or restrain such L/C Issuer from issuing such Letter of Credit, or any Law applicable to such L/C Issuer or any request or directive (whether or not having the force of Law) from any Governmental Authority with jurisdiction over such L/C Issuer shall prohibit, or request that such L/C Issuer refrain from, the issuance of letters of credit generally or such Letter of Credit in particular or shall impose upon such L/C Issuer with respect to such Letter of Credit any restriction, reserve or capital requirement (for which such L/C Issuer is not otherwise compensated hereunder) not in effect on the Closing Date, or shall impose upon such L/C Issuer any unreimbursed loss, cost or expense which was not applicable on the Closing Date and which, in each case, such L/C Issuer in good faith deems material to it;

(B) subject to Section 2.03(c)(iii), the expiry date of such requested Letter of Credit would occur more than 12 months after the date of issuance or last renewal, unless the applicable L/C Issuer, in its sole discretion, have approved such expiry date;

(C) the expiry date of such requested Letter of Credit would occur after the Letter of Credit Expiration Date, unless (i) all the Revolving Credit Lenders and the applicable L/C Issuer have approved such expiry date and/or (ii) the applicable L/C Issuer has approved such expiry date and such requested Letter of Credit has been Cash Collateralized by the applicant requesting such Letter of Credit in accordance with Section 2.16 at least three (3) Business Days prior to the Letter of Credit Expiration Date;

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(D) the issuance of such Letter of Credit would violate one or more generally applicable policies of such L/C Issuer in place at the time of such request;

(E) such Letter of Credit is in an initial stated amount of less than \$5,000 or such lesser amount as is acceptable to the applicable L/C Issuer in its sole discretion;

(F) such Letter of Credit is denominated in a currency other than Dollars;

(G) such Letter of Credit is a trade or commercial L/C; and

(H) any Revolving Credit Lender under the applicable Tranche is at that time a Defaulting Lender, unless the applicable L/C Issuer has entered into arrangements, including reallocation of the Defaulting Lender's Pro Rata Share of the outstanding L/C Obligations pursuant to Section 2.17(a)(iv) or the delivery of Cash Collateral in accordance with Section 2.16 with the Borrowers or such Lender to eliminate such L/C Issuer's actual or potential Fronting Exposure under such Tranche (after giving effect to Section 2.17(a)(iv)) with respect to the Defaulting Lender arising from either the Letter of Credit then proposed to be issued or that Letter of Credit and all other L/C Obligations as to which such L/C Issuer has actual or potential Fronting Exposure under such Tranche.

(iii) No L/C Issuer shall be under any obligation to amend any Letter of Credit if (A) such L/C Issuer would have no obligation at such time to issue such Letter of Credit in its amended form under the terms hereof or (B) the beneficiary of such Letter of Credit does not accept the proposed amendment to such Letter of Credit.

(iv) Each L/C Issuer shall act on behalf of the Revolving Credit Lenders under the applicable Tranche with respect to any Letters of Credit issued by it and the documents associated therewith, and each L/C Issuer shall have all of the benefits and immunities (A) provided to the Administrative Agent in Article IX with respect to any acts taken or omissions suffered by such L/C Issuer in connection with Letters of Credit issued by it or proposed to be issued by it and Issuer Documents pertaining to such Letters of Credit as fully as if the term "Administrative Agent" as used in Article IX included each L/C Issuer with respect to such acts or omissions, and (B) as additionally provided herein with respect to each L/C Issuer.

(v) Each Existing Letter of Credit shall be deemed to have been issued by the applicable L/C Issuer as a Letter of Credit hereunder on the Closing Date.

(b) [Reserved].

(c) Procedures for Issuance and Amendment of Letters of Credit; Auto-Renewal Letters of Credit.

(i) Each Letter of Credit shall be issued or amended, as the case may be, upon the request of the Borrowers delivered to the applicable L/C Issuer (with a copy to the Administrative Agent) in the form of a Letter of Credit Application, including agreed-upon draft language for such Letter of Credit reasonably acceptable to the applicable L/C Issuer, appropriately completed and signed by a Responsible Officer of the Borrowers. Such Letter of Credit Application must be received by the applicable L/C Issuer and the Administrative Agent not later than 2:00 p.m. at least five Business Days (or such shorter period as such L/C Issuer may agree in a particular instance in

its sole discretion) prior to the proposed issuance date or date of amendment, as the case may be. In the case of a request for an initial issuance of a Letter of Credit, such Letter of Credit Application shall specify in form and detail reasonably satisfactory to the applicable L/C Issuer: (A) the proposed issuance date of the requested Letter of Credit (which shall be a Business Day); (B) the amount thereof and the currency in which such Letter of Credit is to be denominated; (C) the expiry date thereof; (D) the name and address of the beneficiary thereof; (E) the documents to be presented by such beneficiary in case of any drawing thereunder; (F) the full text of any certificate or other documents to be presented by such beneficiary in case of any drawing thereunder; (G) the Person for whose account the requested Letter of Credit is to be issued (which must be a Borrower Party); and (H) such other matters as the applicable L/C Issuer may reasonably request. In the case of a request for an amendment of any outstanding Letter of Credit, such Letter of Credit Application shall specify in form and detail reasonably satisfactory to the applicable L/C Issuer: (1) the Letter of Credit to be amended; (2) the proposed date of amendment thereof (which shall be a Business Day); (3) the nature of the proposed amendment and (4) such other matters as the applicable L/C Issuer may reasonably request.

(ii) Unless such L/C Issuer has received written notice from any Revolving Credit Lender, the Administrative Agent or any Loan Party, at least one (1) Business Day prior to the requested date of issuance or amendment of the applicable Letter of Credit, that one or more applicable conditions contained in Article IV shall not then be satisfied, then, subject to the terms and conditions hereof, such L/C Issuer shall, on the requested date, issue a Letter of Credit for the account of a Borrower or any Restricted Subsidiary (as designated in the Letter of Credit Application) or enter into the applicable amendment, as the case may be. Immediately upon the issuance of each Letter of Credit under any Tranche, each Revolving Credit Lender under such Tranche shall be deemed to, and hereby irrevocably and unconditionally agrees to, purchase from the applicable L/C Issuer a risk participation in such Letter of Credit in an amount equal to such Lender's Pro Rata Share of the applicable Revolving Credit Facility *multiplied by* the amount of such Letter of Credit.

(iii) If a Borrower on behalf of the applicable Borrower Party so requests in any applicable Letter of Credit Application, the applicable L/C Issuer may, in its sole and absolute discretion, agree to issue a Letter of Credit that has automatic renewal provisions (each, an "Auto-Renewal Letter of Credit"); provided that any such Auto-Renewal Letter of Credit must permit such L/C Issuer to prevent any such renewal at least once in each twelve-month period (commencing with the date of issuance of such Letter of Credit) by giving prior notice to the beneficiary thereof not later than a day in each such twelve-month period to be agreed upon at the time such Letter of Credit is issued. Unless otherwise directed by the applicable L/C Issuer, the Borrowers shall not be required to make a specific request to such L/C Issuer for any such renewal. Once an Auto-Renewal Letter of Credit has been issued, the Revolving Credit Lenders under the applicable Tranche shall be deemed to have authorized (but may not require) the applicable L/C Issuer to permit the renewal of such Letter of Credit at any time to an expiry date not later than the Letter of Credit Expiration Date; provided, however, that such L/C Issuer shall not permit any such renewal if such L/C Issuer has determined that it would have no obligation at such time to issue such Letter of Credit in its renewed form under the terms hereof (by reason of the provisions of Section 2.03(a)(ii) or otherwise).

(iv) Promptly after its delivery of any Letter of Credit or any amendment to a Letter of Credit to an advising bank with respect thereto or to the beneficiary thereof, the applicable L/C Issuer will also (A) deliver to the Borrowers, the applicable Borrower Party and the Administrative Agent a true and complete copy of such Letter of Credit or amendment and (B) the Administrative Agent in turn will notify each Revolving Credit Lender of the applicable Tranche of such issuance or amendment and the amount of such Revolving Credit Lender's Pro Rata Share therein.

(v) Notwithstanding anything to the contrary set forth above, the issuance of any Letters of Credit by any L/C Issuer under this Agreement shall be subject to such reasonable additional letter of credit issuance procedures and requirements as may be required by such L/C Issuer's internal letter of credit issuance policies and procedures, in its sole discretion, as in effect at the time of such issuance, including requirements with respect to the prior receipt by such L/C Issuer of customary "know your customer" information regarding a prospective account party or applicant that is not a Borrower hereunder, as well as regarding any beneficiaries of a requested Letter of Credit. Additionally, if (a) the beneficiary of a Letter of Credit issued hereunder is an issuer of a letter of credit not governed by this Agreement for the account of any Borrower or any Restricted Subsidiary (an "Other L/C"), and (b) such Letter of Credit is issued to provide credit support for such Other L/C, no amendments may be made to such Other L/C without the consent of the applicable L/C Issuer hereunder.

(d) Drawings and Reimbursements: Funding of Participations.

(i) Upon receipt from the beneficiary of any Letter of Credit of any drawing under such Letter of Credit, the applicable L/C Issuer shall notify the Borrowers and the Administrative Agent thereof. Each L/C Issuer shall notify the Borrowers on the date of any payment by such L/C Issuer under a Letter of Credit (each such date, an "Honor Date"), and the Borrowers shall reimburse such L/C Issuer through the Administrative Agent in an amount equal to the amount of such drawing no later than on the next succeeding Business Day (and any reimbursement made on such next Business Day shall be taken into account in computing interest and fees in respect of any such Letter of Credit) after the Borrowers shall have received notice of such payment with interest on the amount so paid or disbursed by such L/C Issuer, to the extent not reimbursed prior to 11:00 a.m. on the next succeeding Business Day following the applicable Honor Date, from and including the date paid or disbursed to but excluding the date such L/C Issuer was reimbursed by the Borrowers therefor at a rate per annum equal to the Base Rate as in effect from time to time *plus* the Applicable Rate as in effect from time to time for Revolving Credit Loans that are maintained as Base Rate Loans. If the Borrowers fail to so reimburse such L/C Issuer on such next Business Day, the Administrative Agent shall promptly notify each Revolving Credit Lender of the Honor Date, the amount of the unreimbursed drawing (the "Unreimbursed Amount"), and the amount of such Revolving Credit Lender's Pro Rata Share thereof. In such event, in the case of an Unreimbursed Amount, the Borrowers shall be deemed to have requested a Revolving Credit Borrowing of Base Rate Loans to be disbursed on such date in an amount equal to the Unreimbursed Amount, in accordance with the requirements of Section 2.02 but without regard to the minimum and multiples specified in Section 2.02 for the principal amount of Base Rate Loans or Term Benchmark Loans, as the case may be, but subject to the amount of the unutilized portion of the Revolving Credit Commitments under the applicable Tranche and the conditions set forth in Section 4.02 (other than the delivery of a Committed Loan Notice). Any notice given by an L/C Issuer or the Administrative Agent pursuant to this Section 2.03(d)(i) may be given by telephone if promptly confirmed in writing; provided that the lack of such a prompt confirmation shall not affect the conclusiveness or binding effect of such notice.

(ii) Each Revolving Credit Lender (including each Lender acting as an L/C Issuer) shall upon any notice pursuant to Section 2.03(d)(i) make funds available (and the Administrative Agent may apply Cash Collateral provided for this purpose) for the account of the applicable L/C Issuer, at the Administrative Agent's Office in an amount equal to its applicable Pro Rata Share of the Unreimbursed Amount not later than 11:00 a.m. on the Business Day specified in such notice

by the Administrative Agent, whereupon, subject to the provisions of Section 2.03(d)(iii), each Revolving Credit Lender that so makes funds available shall be deemed to have made a Base Rate Revolving Credit Loan under the applicable Tranche to the Borrowers in such amount. The Administrative Agent shall promptly remit the funds so received to the applicable L/C Issuer.

(iii) With respect to any Unreimbursed Amount that is not fully refinanced by a Revolving Credit Borrowing of Base Rate Loans because the conditions set forth in Section 4.02 cannot be satisfied (other than the condition in Section 4.02(c), which shall be deemed to be satisfied) or for any other reason, the Borrowers shall be deemed to have incurred from the applicable L/C Issuer an L/C Borrowing in the amount of the Unreimbursed Amount that is not so refinanced, which L/C Borrowing shall be due and payable on demand (together with interest) and shall bear interest at the Default Rate then applicable to Base Rate Revolving Credit Loans. In such event, each Revolving Credit Lender's payment to the Administrative Agent for the account of the applicable L/C Issuer pursuant to Section 2.03(d)(ii) shall be deemed payment in respect of its participation in such L/C Borrowing and shall constitute an L/C Advance from such Lender in satisfaction of its participation obligation under this Section 2.03.

(iv) Until each Revolving Credit Lender under the applicable Tranche funds its Revolving Credit Loan or L/C Advance pursuant to this Section 2.03(d) to reimburse the applicable L/C Issuer for any amount drawn under any Letter of Credit, interest in respect of such Lender's applicable Pro Rata Share of such amount shall be solely for the account of such L/C Issuer.

(v) Each Revolving Credit Lender's obligation to make Revolving Credit Loans or L/C Advances to reimburse the applicable L/C Issuer for amounts drawn under Letters of Credit, as contemplated by this Section 2.03(d), shall be absolute and unconditional and shall not be affected by any circumstance, including (A) any setoff, counterclaim, recoupment, defense or other right which such Lender may have against such L/C Issuer, any Borrower or any other Person for any reason whatsoever, (B) the occurrence or continuance of a Default or (C) any other occurrence, event or condition, whether or not similar to any of the foregoing; provided, however, that each Revolving Credit Lender's obligation to make Revolving Credit Loans pursuant to this Section 2.03(d) is subject to the conditions set forth in Section 4.02 (other than delivery by the Borrowers of a Committed Loan Notice). No such making of an L/C Advance shall relieve or otherwise impair the obligation of the Borrowers to reimburse the applicable L/C Issuer for the amount of any payment made by the applicable L/C Issuer under any Letter of Credit, together with interest as provided herein.

(vi) If any Revolving Credit Lender fails to make available to the Administrative Agent for the account of the applicable L/C Issuer any amount required to be paid by such Lender pursuant to the foregoing provisions of this Section 2.03(d) by the time specified in Section 2.03(d)(ii), then, without limiting the other provisions of this Agreement, such L/C Issuer shall be entitled to recover from such Lender (acting through the Administrative Agent), on demand, such amount with interest thereon for the period from the date such payment is required to the date on which such payment is immediately available to such L/C Issuer at a rate per annum equal to the greater of the Overnight Rate from time to time in effect and a rate reasonably determined by such L/C Issuer in accordance with banking industry rules on interbank compensation, *plus* any reasonable administrative, processing or similar fees customarily charged by such L/C Issuer in connection with the foregoing. If such Lender pays such principal amount, the amount so paid (less interest and fees) shall constitute such Lender's Loan included in the relevant Borrowing or L/C Advance in respect of the relevant L/C Borrowing, as the case may be. A certificate of the applicable L/C Issuer submitted to any Revolving Credit Lender (through the Administrative Agent) with respect to any amounts owing under this Section 2.03(d)(vi) shall be conclusive absent manifest error.



(e) Repayment of Participations. (i) If, at any time after an L/C Issuer under any Tranche has made a payment under any Letter of Credit issued by it and has received from any Revolving Credit Lender such Lender's L/C Advance in respect of such payment in accordance with Section 2.03(d), the Administrative Agent receives for the account of such L/C Issuer any payment in respect of the related Unreimbursed Amount or interest thereon (whether directly from the Borrowers or otherwise, including proceeds of Cash Collateral applied thereto by the Administrative Agent), the Administrative Agent will distribute to such Lender its applicable Pro Rata Share thereof (appropriately adjusted, in the case of interest payments, to reflect the period of time during which such Lender's L/C Advance was outstanding) in the same funds as those received by the Administrative Agent.

(ii) If any payment received by the Administrative Agent for the account of an L/C Issuer pursuant to Section 2.03(d)(i) is required to be returned under any of the circumstances described in Section 10.06 (including pursuant to any settlement entered into by such L/C Issuer in its discretion), each Revolving Credit Lender under the applicable Tranche shall pay to the Administrative Agent for the account of such L/C Issuer its applicable Pro Rata Share thereof on demand of the Administrative Agent, *plus* interest thereon from the date of such demand to the date such amount is returned by such Lender, at a rate per annum equal to the Overnight Rate from time to time in effect. The obligations of the Lenders under this clause shall survive the payment in full of the Obligations and the termination of this Agreement.

(f) Obligations Absolute. The obligation of the Borrowers to reimburse the applicable L/C Issuer for each drawing under each Letter of Credit and to repay each L/C Borrowing shall be absolute and unconditional, and shall be paid strictly in accordance with the terms of this Agreement under all circumstances, including the following:

- (i) any lack of validity or enforceability of such Letter of Credit, this Agreement, or any other agreement or instrument relating thereto;
- (ii) the existence of any claim, counterclaim, setoff, defense or other right that the Borrowers or any Subsidiary may have at any time against any beneficiary or any transferee of such Letter of Credit (or any Person for whom any such beneficiary or any such transferee may be acting), the applicable L/C Issuer or any other Person, whether in connection with this Agreement, the transactions contemplated hereby or by such Letter of Credit or any agreement or instrument relating thereto, or any unrelated transaction;
- (iii) any draft, demand, certificate or other document presented under such Letter of Credit proving to be forged, fraudulent, invalid or insufficient in any respect or any statement therein being untrue or inaccurate in any respect; or any loss or delay in the transmission or otherwise of any document required in order to make a drawing under such Letter of Credit;
- (iv) any payment by the applicable L/C Issuer under such Letter of Credit against presentation of a draft, certificate or other drawing document that does not comply with the terms of such Letter of Credit; or any payment made by the applicable L/C Issuer under such Letter of Credit to any Person purporting to be a trustee in bankruptcy, debtor-in-possession, assignee for the benefit of creditors, administrator, administrative receiver, judicial manager, liquidator, receiver or other representative of or successor to any beneficiary or any transferee of such Letter of Credit, including any arising in connection with any proceeding under any Debtor Relief Law;
- (v) any exchange, release or non-perfection of any Collateral, or any release or amendment or waiver of or consent to departure from the Guaranty or any other guarantee, for all or any of the Obligations of the Borrowers in respect of such Letter of Credit; or

(vi) any other circumstance or happening whatsoever, whether or not similar to any of the foregoing, including any other circumstance that might otherwise constitute a defense available to, or a legal or equitable discharge of, or provide a right of setoff against the obligations of the Borrowers or any Subsidiaries hereunder.

The Borrowers shall promptly examine a copy of each Letter of Credit and each amendment thereto that is delivered to them and, in the event of any claim of noncompliance with the instructions of the Borrowers or other irregularity, the Borrowers will promptly notify the applicable L/C Issuer. The Borrowers shall be conclusively deemed to have waived any such claim against any L/C Issuer and its correspondents unless such notice is given as aforesaid.

(g) Role of L/C Issuer. Each Lender and the Borrowers agree that, in paying any drawing under a Letter of Credit, the applicable L/C Issuer shall not have any responsibility to obtain any document (other than any sight draft, certificates and other documents expressly required by the Letter of Credit) or to ascertain or inquire as to the validity or accuracy of any such document or the authority of the Person executing or delivering any such document. None of the applicable L/C Issuer, any Agent-Related Person nor any of the respective correspondents, participants or assignees of the applicable L/C Issuer shall be liable to any Lender for (i) any action taken or omitted in connection herewith at the request or with the approval of the Revolving Credit Lenders or the Required Revolving Lenders, as applicable; (ii) any action taken or omitted in the absence of gross negligence or willful misconduct as determined by a court of competent jurisdiction in a final and nonappealable judgment or (iii) the due execution, effectiveness, validity or enforceability of any document or instrument related to any Letter of Credit or Letter of Credit Application. The Borrowers hereby assume all risks of the acts or omissions of any beneficiary or transferee with respect to its use of any Letter of Credit; provided, however, that this assumption is not intended to, and shall not, preclude the Borrowers from pursuing such rights and remedies as they may have against the beneficiary or transferee at Law or under any other agreement. None of the applicable L/C Issuer, any Agent-Related Person, nor any of the respective correspondents, participants or assignees of such L/C Issuer, shall be liable or responsible for any of the matters described in clauses (i) through (vi) of Section 2.03(f); provided, however, that anything in such clauses to the contrary notwithstanding, the Borrowers may have a claim against such L/C Issuer, and such L/C Issuer may be liable to the Borrowers, to the extent, but only to the extent, of any direct, as opposed to indirect, special, punitive, consequential or exemplary, damages suffered by the Borrowers which a court of competent jurisdiction determines in a final non-appealable judgment were caused by such L/C Issuer's willful misconduct or gross negligence. In furtherance and not in limitation of the foregoing, (x) the applicable L/C Issuer may, in its sole discretion, (1) accept documents that appear on their face to be in order and make payment upon such documents, without responsibility for further investigation, regardless of any notice or information to the contrary, and (2) decline to accept documents and make payments if such documents are not in strict compliance with the terms and conditions of such Letter of Credit, and (y) such L/C Issuer shall not be responsible for the validity or sufficiency of any instrument transferring or assigning or purporting to transfer or assign a Letter of Credit or the rights or benefits thereunder or proceeds thereof, in whole or in part, which may prove to be invalid or ineffective for any reason.

(h) Letter of Credit Fees. The Borrowers shall pay to the Administrative Agent for the account of each Revolving Credit Lender in accordance with its applicable Pro Rata Share, a Letter of Credit fee which shall accrue for each Letter of Credit of each Tranche in an amount equal to the Applicable Rate then in effect for Term Benchmark Loans with respect to the Revolving Credit Facility *multiplied by* the daily maximum amount then available to be drawn under such Letter of Credit (whether or not such maximum amount is then in effect under such Letter of Credit if such maximum amount increases automatically pursuant to the terms of such Letter of Credit); provided, however, that any Letter of Credit fees otherwise payable for the account of a Defaulting Lender with respect to any Letter of Credit as to which such Defaulting Lender has not provided Cash Collateral satisfactory to the applicable L/C Issuer pursuant to

this Section 2.03 shall be payable, to the maximum extent permitted by applicable Law, to the other Revolving Credit Lenders under the applicable Tranche in accordance with the upward adjustments in their respective applicable Pro Rata Shares allocable to such Letter of Credit pursuant to Section 2.17(a)(iv), with the balance of such fee, if any, payable to the applicable L/C Issuer for its own account. Such Letter of Credit fees shall be computed on a quarterly basis in arrears and shall be due and payable on the fifteenth (15th) day after the end of each fiscal quarter, in respect of the quarterly period then ending (or portion thereof, in the case of the first payment), commencing with the first such date to occur after the issuance of such Letter of Credit, and on the Letter of Credit Expiration Date. If there is any change in the Applicable Rate during any quarter, the daily maximum amount of each Letter of Credit shall be computed and *multiplied by* the Applicable Rate separately for each period during such quarter that such Applicable Rate was in effect.

(i) Fronting Fee and Documentary and Processing Charges Payable to an L/C Issuer. The Borrowers shall pay directly to the applicable L/C Issuer for its own account a fronting fee equal to 0.125% of the maximum daily amount available to be drawn under each Letter of Credit on a quarterly basis in arrears. Such fronting fee shall be calculated on a quarterly basis in arrears and shall be due and payable on the fifteenth (15th) day after the end of each fiscal quarter, in respect of the quarterly period then ending (or portion thereof, in the case of the first payment), commencing with the first such date to occur after the issuance of such Letter of Credit, and on the Letter of Credit Expiration Date. For purposes of computing the maximum daily amount available to be drawn under any Letter of Credit, the amount of such Letter of Credit shall be determined in accordance with Section 1.09. In addition, the Borrowers shall pay directly to the applicable L/C Issuer for its own account the customary issuance, presentation, administration, amendment and other processing fees, and other standard costs and charges, of such L/C Issuer relating to letters of credit as from time to time in effect. Such other customary fees and standard costs and charges are due and payable within five (5) Business Days of invoice and are nonrefundable.

(j) Conflict with Letter of Credit Application. In the event of any conflict between the terms hereof and the terms of any Letter of Credit Application, the terms hereof shall control.

(k) Reporting. To the extent that any Letters of Credit are issued by an L/C Issuer other than the Administrative Agent, each such L/C Issuer shall furnish to the Administrative Agent a report detailing the daily L/C Obligations outstanding under all Letters of Credit issued by it, such report to be in a form and at reporting intervals as shall be agreed between the Administrative Agent and such L/C Issuer; provided that in no event shall such reports be furnished at intervals greater than 31 days (and in no event shall any such report be required to be provided earlier than the fifth Business Day after the end of any calendar month in respect of a calendar month period).

(l) Provisions Related to Extended Revolving Credit Commitments. If the Maturity Date in respect of any Tranche of Revolving Credit Commitments occurs prior to the expiration of any Letter of Credit, then (i) if one or more other Tranches of Revolving Credit Commitments in respect of which the Maturity Date shall not have occurred are then in effect, such Letters of Credit shall automatically be deemed to have been issued (including for purposes of the obligations of the Revolving Credit Lenders to purchase participations therein and to make Revolving Credit Loans and payments in respect thereof pursuant to this Section 2.03) under (and ratably participated in by Lenders pursuant to) the Revolving Credit Commitments in respect of such non-terminating Tranches up to an aggregate amount not to exceed the aggregate principal amount of the unutilized Revolving Credit Commitments thereunder at such time (it being understood that no partial face amount of any Letter of Credit may be so reallocated) and to the extent any Letters of Credit are not able to be reallocated pursuant to this clause (l), and there are outstanding Revolving Credit Loans under the non-terminating Tranches, the Borrowers agree to repay all such Revolving Credit Loans (or such lesser amount as is necessary to reallocate all Letters of Credit pursuant to this clause (l)) or (ii) to the extent not reallocated pursuant to immediately preceding clause (i), the

Borrowers shall Cash Collateralize any such Letter of Credit in accordance with Section 2.16 but only up to the amount of such Letter of Credit not so reallocated. Except to the extent of reallocations of participations pursuant to clause (i) of the immediately preceding sentence, the occurrence of a Maturity Date with respect to a given tranche of Revolving Credit Commitments shall have no effect upon (and shall not diminish) the percentage participations of the Revolving Credit Lenders in any Letter of Credit issued before such Maturity Date.

Section 2.04 [Reserved].

Section 2.05 Prepayments.

(a) Optional.

(i) The Borrowers may, upon notice by the Borrowers substantially in the form of Exhibit J to the Administrative Agent, at any time or from time to time voluntarily prepay Loans in whole or in part without premium or penalty except as set forth in Section 2.05(a)(iii) below; provided that (1) such notice must be received by the Administrative Agent not later than 2:00 p.m. (A) three (3) Business Days prior to any date of prepayment of any Term Benchmark Loans, or (B) one (1) Business Day prior to the date of prepayment of any Base Rate Loans (or such shorter period as the Administrative Agent shall agree); (2) any prepayment of Term Benchmark Loans shall be (x) in a principal amount of \$1,000,000, or (y) a whole multiple of \$1,000,000 in excess thereof; and (3) any prepayment of Base Rate Loans shall be (x) in a principal amount of \$1,000,000, or (y) a whole multiple of \$500,000 in excess thereof or, in each case, if less, the entire principal amount thereof then outstanding. Each such notice shall specify the date and amount of such prepayment, the Tranche of Loans to be prepaid, the Type(s) of Loans to be prepaid (except that if the class of Loans to be prepaid includes both Base Rate Loans and Term Benchmark Loans, absent direction by the Borrowers, the applicable prepayment shall be applied first to Base Rate Loans to the full extent thereof before application to Term Benchmark Loans, in each case in a manner that minimizes the amount payable by the Borrowers in respect of such prepayment pursuant to Section 3.06). The Administrative Agent will promptly notify each Lender of its receipt of each such notice, and of the amount of such Lender's ratable portion of such prepayment (based on such Lender's ratable share of the relevant Facility). If such notice is given by the Borrowers, subject to clause (ii) below, the Borrowers shall make such prepayment and the payment amount specified in such notice shall be due and payable on the date specified therein. Any prepayment of a Loan shall be accompanied by all accrued interest thereon, together with, if applicable, any additional amounts required pursuant to Section 2.05(a)(iii) and Section 3.06. Subject to Section 2.17 and notwithstanding anything to the contrary contained in this Agreement, each prepayment of outstanding Term Loan Tranches pursuant to this Section 2.05(a) shall be applied to the applicable Term Loan Tranche or Term Loan Tranches as designated by the Borrowers in such notice on a pro rata basis to the Lenders within such Term Loan Tranche. Subject to Section 2.17 and notwithstanding anything to the contrary contained in this Agreement, each prepayment of an outstanding Term Loan Tranche pursuant to this Section 2.05(a) shall be applied to the remaining amortization payments of the applicable Term Loan Tranche as directed by the Borrowers (or, if the Borrowers have not made such direction, in direct order of maturity).

(ii) Notwithstanding anything to the contrary contained in this Agreement, any notice of prepayment under Section 2.05(a)(i) may state that it is conditioned upon the occurrence or non-occurrence of any event specified therein (including the effectiveness of other credit facilities), in which case such notice may be revoked or extended by the Borrowers (by written notice to the Administrative Agent on or prior to the specified effective date) if such condition is not satisfied.

(iii) If the Borrowers, in connection with, or resulting in, any Repricing Event (A) make a voluntary prepayment of any Initial Term Loan pursuant to Section 2.05(a), (B) make a repayment of any Initial Term Loans pursuant to Section 2.05(b)(iii) or (C) effect any amendment with respect to any Initial Term Loan, in each case, on or prior to the date that is six (6) months after the Closing Date, the applicable Borrowers shall pay to the Administrative Agent, for the ratable account of the applicable Term Lenders (x) with respect to clauses (A) and (B), a prepayment premium in an amount equal to 1.00% of the principal amount of such Initial Term Loans prepaid or repaid and (y) with respect to clause (C), a prepayment premium in an amount equal to 1.00% of the principal amount of the affected Initial Term Loans held by the applicable Term Lenders not consenting to such amendment.

(b) Mandatory.

(i) For any Excess Cash Flow Period, within ten (10) Business Days after delivery of a Compliance Certificate pursuant to Section 6.02(b) with respect to any financial statements delivered pursuant to Section 6.01(a) (or, if later, the date on which such Compliance Certificate is required to be delivered), the applicable Borrowers shall prepay an aggregate principal amount of Term Loans in an amount equal to (A) 50% (as may be adjusted pursuant to the proviso below, the “ECF Percentage”) of Excess Cash Flow for such Excess Cash Flow Period, *minus* (B) the sum of (without double counting and only to the extent the Parent Borrower has not elected to reflect such deduction in the calculation of Excess Cash Flow):

(1) (A) the aggregate amount of voluntary principal prepayments of the Loans or any other Indebtedness (including any New Term Loans) that is *pari passu* in right of payment and security with the Initial Term Loans, in each case, made during the period commencing on the first day of the relevant Excess Cash Flow Period and ending on the date immediately prior to the date on which the relevant Excess Cash Flow prepayment is or would be required to be made (including prepayments at a discount to par and open market purchases, with credit given for the principal amount of the Loans or such other Indebtedness (including New Term Loans) so retired or purchased, and prepayments in connection with lender replacement provisions (including pursuant to Section 3.08)) (except prepayments of Loans under any Revolving Tranche or other revolving Indebtedness that is *pari passu* in right of payment and security with the Revolving Credit Commitments that are not accompanied by a corresponding permanent commitment reduction of the Revolving Tranches), in each case other than to the extent that any such prepayment is funded with the proceeds of Specified Refinancing Debt, Refinancing Notes or any other long-term Indebtedness (other than any revolving credit facility) (this clause (A), “Voluntary Debt Reductions”), *plus* (B) any amounts in respect of a Voluntary Debt Reduction carried forward from any prior fiscal year in accordance with clause (c) of the proviso below;

provided that:

- (a) the ECF Percentage in respect of any Excess Cash Flow Period shall be reduced to (x) 25% if the Consolidated First Lien Net Leverage Ratio, calculated on a Pro Forma Basis as of the last day of the fiscal year to which such Excess Cash Flow Period relates was equal to or less than 2:50:1.00 but greater than 2.00:1.00 and (y) 0% if the Consolidated First Lien Net Leverage Ratio, calculated on a Pro Forma Basis as of the last day of the fiscal year to which such Excess Cash Flow Period relates was equal to or less than 2:00:1.00 (the amount required to be repaid pursuant to this Section 2.05(b)(i), after giving effect to this clause (a), the “ECF Prepayment Amount”);

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- (b) no prepayment shall be required with respect to any Excess Cash Flow Period unless the ECF Prepayment Amount exceeds the greater of \$195,000,000 and 15% of the EBITDA Grower Amount (the “ECF De Minimis Amount”), and in such case, the ECF Prepayment Amount shall be the amount in excess thereof; provided, further, that, if the Consolidated First Lien Net Leverage Ratio on a Pro Forma Basis after giving effect to any Excess Cash Flow prepayment would result in the ECF Percentage in respect of the applicable Excess Cash Flow Period being reduced to 0%, then no prepayment shall be required; and
  - (c) notwithstanding the terms of Section 2.05(b)(i) above, to the extent the aggregate amount of Voluntary Debt Reductions during any relevant fiscal year exceeds the amount of any Excess Cash Flow prepayment that would have otherwise been required (after deducting the ECF De Minimis Amount), the amount of such excess shall be carried forward to the subsequent fiscal year and deducted (on a dollar-for-dollar basis) from any Excess Cash Flow prepayment required in any such subsequent fiscal year (after calculating the applicable ECF Percentage for the relevant fiscal year).

For the avoidance of doubt, the applicable Borrowers may use a portion of Excess Cash Flow to prepay or repurchase any other Indebtedness that is pari passu in right of payment and security with the Initial Term Loans to the extent such other Indebtedness and the Liens securing the same are permitted hereunder and the documentation governing such other Indebtedness requires such a prepayment or repurchase thereof with such Excess Cash Flow, in each case in an amount not to exceed the product of (1) the amount of such Excess Cash Flow and (2) a fraction, the numerator of which is the outstanding principal amount of such other Indebtedness (or to the extent such amount is not in Dollars, such equivalent amount of such Indebtedness converted into Dollars as reasonably determined by the Administrative Agent in consultation with the applicable Borrowers) and the denominator of which is the aggregate outstanding principal amount of Term Loans and such other Indebtedness (or to the extent such amount is not in Dollars, such equivalent amount of such Indebtedness converted into Dollars as reasonably determined by the Administrative Agent in consultation with the applicable Borrowers).

(ii) If any Asset Sale made pursuant to Section 7.04(a) or Casualty Event (or series of related Asset Sales pursuant to Section 7.04(a) or Casualty Events) results in the receipt by the Parent Borrower or any Restricted Subsidiary of aggregate Net Cash Proceeds in excess of the greater of \$195,000,000 and 15% of the EBITDA Grower Amount (such Asset Sale or Casualty Event, a “Relevant Transaction”), then, except to the extent the applicable Borrowers elect to reinvest all or a portion of such Net Cash Proceeds in accordance with Section 7.04, the applicable Borrowers shall prepay, subject to Section 2.05(b)(viii) and (ix), an aggregate principal amount of Term Loans in an amount equal to 100% (as may be adjusted pursuant to the proviso below, the “Asset Sale Prepayment Percentage”) of the Net Cash Proceeds received from such Relevant Transaction within fifteen (15) Business Days of receipt thereof (or within fifteen (15) Business Days (1) after the later of the date the threshold referred to above is first exceeded and the date the relevant Net Cash Proceeds are received or (2) after the Parent Borrower elects not to pursue the reinvestment (or an alternative reinvestment) within the period set forth in Section 7.04) by the Parent Borrower or such Restricted Subsidiary; provided that:

(A) the applicable Borrowers may use a portion of the Net Cash Proceeds received from such Relevant Transaction to prepay or repurchase any other Indebtedness that is pari passu in right of payment and security with the Initial Term Loans to the extent such other Indebtedness and the Liens securing the same are permitted hereunder and the documentation governing such other Indebtedness requires such a prepayment or repurchase thereof with the proceeds of such Relevant Transaction, to the extent not deducted in the calculation of Net Cash Proceeds, in each case in an amount not to exceed

the product of (1) the amount of such Net Cash Proceeds and (2) a fraction, the numerator of which is the outstanding principal amount of such other Indebtedness (or to the extent such amount is not in Dollars, such equivalent amount of such Indebtedness converted into Dollars as reasonably determined by the Administrative Agent in consultation with the applicable Borrowers) and the denominator of which is the aggregate outstanding principal amount of Term Loans and such other Indebtedness (or to the extent such amount is not in Dollars, such equivalent amount of such Indebtedness converted into Dollars as reasonably determined by the Administrative Agent in consultation with the applicable Borrowers);

(B) the Asset Sale Prepayment Percentage shall be reduced from 100% to (x) 50% if, on a Pro Forma Basis after giving effect to such Asset Sale or Casualty Event, as the case may be, and the use of proceeds therefrom, the Consolidated First Lien Net Leverage Ratio would be equal to or less than 2:50:1.00 but greater than 2:00:1.00 and (y) 0% if, on a Pro Forma Basis after giving effect to such Asset Sale or Casualty Event, as the case may be, and the use of proceeds therefrom, the Consolidated First Lien Net Leverage Ratio would be equal to or less than 2:00:1.00; provided that if the Consolidated First Lien Net Leverage Ratio on a Pro Forma Basis after giving effect to any prepayment that would otherwise be required pursuant to this Section 2.05(b)(ii) would result in the Asset Sale Prepayment Percentage being reduced to 0%, then no prepayment shall be required;

(C) only the amount of Net Cash Proceeds in excess of the greater of \$195,000,000 and 15% of the EBITDA Grower Amount for any Asset Sale or Casualty Event (or series of related Asset Sales or Casualty Events) shall be subject to prepayment pursuant to this Section 2.05(b)(ii) and, in such case, the required prepayment shall be only the amount in excess thereof.

(iii) Upon the incurrence or issuance by the Parent Borrower or any Restricted Subsidiary of any Refinancing Notes, any Specified Refinancing Term Loans or any Indebtedness not expressly permitted to be incurred or issued pursuant to Section 7.01, the applicable Borrowers shall prepay an aggregate principal amount of Term Loan Tranches in an amount equal to 100% of all Net Cash Proceeds received therefrom immediately upon receipt thereof by the Parent Borrower or such Restricted Subsidiary.

(iv) In the event the (x) Spin-Off has not been consummated on or prior to the date that is two (2) Business Day following the Closing Date (the "Outside Date") or (y) the Parent Borrower has notified the Administrative Agent in writing that the Parent Borrower has determined that the Spin-Off will not be consummated on or prior to the Outside Date or a Responsible Officer of DuPont publicly announces in writing that the Spin-Off has been or will be abandoned, the Parent Borrower shall prepay (and, if applicable, shall procure that the recipient of any proceeds of the Initial Term Borrowings repay to the Parent Borrower, for application in accordance with this provision) in full the aggregate principal amount of the Initial Term Borrowings outstanding and any other amounts outstanding pursuant to this Agreement or any other Loan Document within three (3) Business Days thereafter without premium or penalty (subject to Section 3.06), together with accrued but unpaid interest to, but not including, the date of such repayment.

(v) If for any reason the sum of the Total Revolving Credit Outstandings or the sum of outstanding Specified Refinancing Revolving Loans at any time exceed the sum of the applicable Revolving Tranche in respect thereof (including after giving effect to any reduction in the Revolving Credit Commitments pursuant to Section 2.06), the Borrowers shall immediately prepay the applicable Revolving Tranche and/or Cash Collateralize the L/C Obligations related thereto in an aggregate amount equal to such excess; provided, however, that the Borrowers shall not be

required to Cash Collateralize the L/C Obligations pursuant to this Section 2.05(b)(v) unless after the prepayment in full of the applicable Revolving Tranche the sum of the Total Revolving Credit Outstandings or the outstanding Specified Refinancing Revolving Loans, as the case may be, exceed the aggregate Revolving Credit Commitments or the commitments to make Specified Refinancing Revolving Loans, as the case may be, then in effect.

(vi) Subject to Section 2.17, each prepayment of Term Loans pursuant to this Section 2.05(b) shall be applied to then-outstanding Term Loan Tranches on a pro rata basis, and within the applicable Term Loan Tranche or Term Loan Tranches, as directed by the applicable Borrowers making such prepayment on a pro rata basis to the Lenders within such Tranche (other than a prepayment of (x) Revolving Credit Loans set forth in Section 2.05(b)(v), which shall be applied on a pro rata basis to the Lenders within the applicable Revolving Tranches, (y) Term Loans or Revolving Credit Loans, as applicable, with the proceeds of Indebtedness incurred pursuant to Section 2.18, which shall be applied to the Term Loan Tranche or Revolving Tranche, as applicable, being refinanced pursuant thereto or (z) Term Loans with the proceeds of any Refinancing Notes issued to the extent permitted under clause (a) of the definition of "Permitted Debt", which shall be applied to the Term Loan Tranche being refinanced pursuant thereto). Amounts to be applied to a Term Loan Tranche in connection with prepayments made pursuant to this Section 2.05(b) shall be applied to the remaining amortization payments of the applicable Term Loan Tranche or Term Loan Tranches as directed by the Borrowers (or, if the Borrowers have not made such direction, in direct order of maturity). Each prepayment of Term Loans under a Facility pursuant to this Section 2.05(b) shall be applied on a pro rata basis to the then outstanding Base Rate Loans or Term Benchmark Loans under such Facility; provided that, if there are no Declining Lenders with respect to such prepayment, then the amount thereof shall be applied first to Base Rate Loans pro rata under such Facility to the full extent thereof before application to Term Benchmark Loans, in each case in a manner that minimizes the amount payable by the applicable Borrowers in respect of such prepayment pursuant to Section 3.06.

(vii) All prepayments under this Section 2.05 shall be made together with, in the case of any such prepayment of a Term Benchmark Loan on a date other than the last day of an Interest Period therefor, any amounts owing in respect of such Term Benchmark Loan pursuant to Section 3.06 and, to the extent applicable, any additional amounts required pursuant to Section 2.05(a)(iii). Notwithstanding any of the other provisions of this Section 2.05(b), so long as no Event of Default shall have occurred and be continuing, if any prepayment of Term Benchmark Loans is required to be made under this Section 2.05(b) (other than pursuant to Section 2.05(b)(iv)), other than on the last day of the Interest Period therefor, the applicable Borrowers may, in their sole discretion, deposit the amount of any such prepayment otherwise required to be made thereunder into a Cash Collateral account until the last day of such Interest Period, at which time the Administrative Agent shall be authorized (without any further action by or notice to or from the Borrowers or any other Loan Party or Grantor) to apply such amount to the prepayment of such Loans in accordance with this Section 2.05(b) (it being agreed, for clarity, that interest shall continue to accrue on the Loans so prepaid until the amount so deposited is actually applied to prepay such Loans). Upon the occurrence and during the continuance of any Event of Default, the Administrative Agent shall also be authorized (without any further action by or notice to or from the Borrowers or any other Loan Party or Grantor) to apply such amount to the prepayment of the outstanding Loans in accordance with this Section 2.05(b).



(viii) Notwithstanding any other provisions of this Section 2.05, to the extent that any or all of the Net Cash Proceeds of any Asset Sale by a Non-U.S. Subsidiary (a “Non-U.S. Disposition”) or the Net Cash Proceeds of any Casualty Event from a Non-U.S. Subsidiary (a “Non-U.S. Casualty Event”), in each case giving rise to a prepayment event pursuant to Section 2.05(b)(ii), or Excess Cash Flow giving rise to a prepayment event pursuant to Section 2.05(b)(i), are or is prohibited, restricted or delayed by applicable local law, rule or regulation (including financial assistance and corporate benefit restrictions, restrictions on upstreaming of cash intra-group and fiduciary and statutory duties of any direct or officers of such Subsidiaries) from being repatriated to the applicable Borrowers or so prepaid or such repatriation or prepayment would present a material risk of liability for the applicable Subsidiary or its directors or officers (or gives rise to a material risk of breach of fiduciary or statutory duties by any director or officer), an amount equal to the portion of such Net Cash Proceeds or Excess Cash Flow so affected will not be required to be applied to repay Term Loans at the times provided in this Section 2.05 but may be retained by the applicable Non-U.S. Subsidiary.

(ix) Notwithstanding any other provisions of this Section 2.05, to the extent that the Borrowers have determined in good faith that the prepayment of any or all of the Net Cash Proceeds of any Non-U.S. Disposition or any Non-U.S. Casualty Event, in each case giving rise to a prepayment event pursuant to Section 2.05(b)(ii), or Excess Cash Flow giving rise to a prepayment event pursuant to Section 2.05(b)(i) would have an adverse tax cost consequence on any Borrower or any Restricted Subsidiary (taking into account any foreign tax credit or benefit actually realized in connection with such prepayment) with respect to such Net Cash Proceeds or Excess Cash Flow, an amount equal to the Net Cash Proceeds or Excess Cash Flow so affected will not be required to be applied to repay Term Loans at the times provided in this Section 2.05 but may be retained by the applicable Non-U.S. Subsidiary.

(x) Notwithstanding any other provisions of this Section 2.05, to the extent that any or all of the Net Cash Proceeds of any Asset Sale by a Restricted Subsidiary that is not a Wholly Owned Subsidiary or the Net Cash Proceeds of any Casualty Event from a Restricted Subsidiary that is not a Wholly Owned Subsidiary, in each case giving rise to a prepayment event pursuant to Section 2.05(b)(ii), or Excess Cash Flow giving rise to a prepayment event pursuant to Section 2.05(b)(i) are or is prohibited, restricted or delayed by the Organization Documents of such Subsidiary from being distributed to the applicable Borrowers or so prepaid, an amount equal to the portion of such Net Cash Proceeds or Excess Cash Flow so affected will not be required to be applied to repay Term Loans at the times provided in this Section 2.05 but may be retained by the applicable Subsidiary.

(xi) The Borrowers shall not be required to monitor any Payment Block and/or reserve cash for future repatriation after such Borrower has notified the Administrative Agent of the existence of such Payment Block, and such amounts subject to any Payment Block shall be available for working capital purposes of the Borrower Parties. To the extent practicable, the Loan Parties and Grantors shall use commercially reasonable efforts for to overcome or eliminate any such Payment Blocks and/or minimize any such costs of prepayment.

(c) Term Lender Opt-Out. With respect to any prepayment of Initial Term Loans and, unless otherwise specified in the documents therefor, other Term Loan Tranches, in each case pursuant to Section 2.05(b)(i) or (b)(ii), any Appropriate Lender, at its option (but solely to the extent the Borrowers elect for this clause (c) to be applicable to a given prepayment, other than in connection with any Refinancing Notes or any Specified Refinancing Term Loans), may elect not to accept such prepayment as provided below. The Borrowers may notify the Administrative Agent of any event giving rise to a prepayment under Section 2.05(b)(i) or (b)(ii) at least five (5) Business Days prior to the date of such prepayment. Each such notice shall specify the date of such prepayment and provide a reasonably detailed calculation of the amount of such prepayment that is required to be made under Section 2.05(b)(i) or (b)(ii) (the “Prepayment Amount”). The Administrative Agent will promptly notify each Appropriate Lender of the contents of any such prepayment notice so received from the Borrowers, including the date on which

such prepayment is to be made (the “Prepayment Date”). Any Appropriate Lender may (but solely to the extent the Borrowers elect for this clause (c) to be applicable to a given prepayment) decline to accept all (but not less than all) of its share of any such prepayment (any such Lender, a “Declining Lender”) by providing written notice to the Administrative Agent no later than four (4) Business Days after the date of such Appropriate Lender’s receipt of notice from the Administrative Agent regarding such prepayment. If any Appropriate Lender does not give a notice to the Administrative Agent on or prior to such fourth Business Day informing the Administrative Agent that it declines to accept the applicable prepayment, then such Lender will be deemed to have accepted such prepayment. On any Prepayment Date, an amount equal to the Prepayment Amount *minus* the portion thereof allocable to Declining Lenders, in each case for such Prepayment Date, shall be paid to the Administrative Agent by the Borrowers and applied by the Administrative Agent to prepay Term Loans under the Term Loan Tranches owing to Appropriate Lenders (other than Declining Lenders) as directed by the applicable Borrowers in the manner described in Section 2.05(b)(vi) for such prepayment. Any amounts that would otherwise have been applied to prepay Term Loans, New Term Loans or Specified Refinancing Term Loans owing to Declining Lenders (such amounts, “Declined Amounts”) shall be retained by the Parent Borrower and its Restricted Subsidiaries and may be used for any purpose not prohibited by this Agreement.

#### Section 2.06 Termination or Reduction of Commitments.

(a) Optional. The Borrowers may, upon written notice by the applicable Borrowers to the Administrative Agent, terminate the unused portions of the Commitments under any Term Loan Tranche, the Letter of Credit Sublimit, or the unused Revolving Credit Commitments under any Revolving Tranche, or from time to time permanently reduce the unused portions of the Commitments under any Term Loan Tranche, the Letter of Credit Sublimit, or the unused Revolving Credit Commitments under any Revolving Tranche; provided that (i) any such notice shall be received by the Administrative Agent three (3) Business Days (or such shorter period as the Administrative Agent shall agree) prior to the date of termination or reduction, (ii) any such partial reduction shall be in an aggregate amount of \$500,000 or any whole multiple of \$100,000 in excess thereof and (iii) the Borrowers shall not terminate or reduce (A) the Commitments under any Tranche of the Revolving Credit Facility if, after giving effect thereto and to any concurrent prepayments hereunder, (x) the Total Revolving Credit Outstandings would exceed the aggregate Revolving Credit Commitments or (y) the Total Revolving Credit Outstandings with respect to such Tranche would exceed the Revolving Credit Commitments under such Tranche and (B) the Letter of Credit Sublimit if, after giving effect thereto, the Outstanding Amount of L/C Obligations not fully Cash Collateralized hereunder would exceed the Letter of Credit Sublimit. Any such notice of termination or reduction of commitments pursuant to this Section 2.06(a) may state that it is conditioned upon the occurrence or non-occurrence of any event specified therein (including the effectiveness of other credit facilities), in which case such notice may be revoked by the Borrowers (by written notice to the Administrative Agent on or prior to the specified effective date) if such condition is not satisfied. For the avoidance of doubt, upon the Date of Full Satisfaction, this Agreement shall automatically terminate and the Administrative Agent shall comply with Section 9.11.

#### (b) Mandatory.

(i) The Aggregate Commitments under a Term Loan Tranche shall be automatically and permanently reduced to zero on the date of the initial incurrence of Term Loans under such Term Loan Tranche, which in the case of the Initial Term Commitments shall be the Closing Date.

(ii) Upon the incurrence by the Parent Borrower or any Restricted Subsidiary of any Specified Refinancing Debt constituting revolving credit facilities, the Revolving Credit Commitments of the Lenders under the Tranche of Revolving Credit Loans being refinanced shall be automatically and permanently reduced on a ratable basis by an amount equal to 100% of the Commitments under such revolving credit facilities.

(iii) If after giving effect to any reduction or termination of Revolving Credit Commitments under this Section 2.06, the Letter of Credit Sublimit exceeds the amount of the Revolving Credit Commitments at such time, the Letter of Credit Sublimit shall be automatically reduced by the amount of such excess.

(iv) The aggregate Revolving Credit Commitments with respect to any Tranche of the Revolving Credit Facility shall automatically and permanently be reduced to zero on the Maturity Date with respect to such Tranche of the Revolving Credit Facility.

(c) Application of Commitment Reductions; Payment of Fees. The Administrative Agent will promptly notify the applicable Lenders of the applicable Facility of any termination or reduction of the Commitments under any Term Loan Tranche, the Letter of Credit Sublimit or the Revolving Credit Commitment under this Section 2.06. Upon any reduction of Commitments under a Facility or a Tranche thereof, the Commitment of each Lender under such Facility or Tranche thereof shall be reduced by such Lender's ratable share of the amount by which such Facility or Tranche thereof is reduced (other than the termination of the Commitment of any Lender as provided in Section 3.08). All commitment fees accrued until the effective date of any termination of the Aggregate Commitments and unpaid, shall be paid on the effective date of such termination.

#### Section 2.07 Repayment of Loans.

(a) Initial Term Loans. The Parent Borrower shall repay to the Administrative Agent for the ratable account of the applicable Term Lenders holding Initial Term Loans the aggregate original principal amount of the Initial Term Loans in consecutive, equal, quarterly installments as follows payable on the last Business Day of each fiscal quarter of the Borrower set forth below (which installments shall, to the extent applicable, be reduced as a result of the application of prepayments in accordance with the order of priority set forth in Sections 2.05 and 2.06, or be increased as a result of any increase in the amount of Initial Term Loans pursuant to Section 2.14 (such increased amortization payments to be calculated in the same manner (and on the same basis) as the schedule set forth below for Initial Term Loans made as of the Closing Date)):

| Date                                                                                                                                                                               | Amount                                                                                    |
|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-------------------------------------------------------------------------------------------|
| The last Business Day of each fiscal quarter ending prior to the Maturity Date for Initial Term Loans, commencing with the first full fiscal quarter ending after the Closing Date | 0.25% of the aggregate initial principal amount of Initial Term Loans on the Closing Date |

provided, however, that (i) if the date scheduled for any principal repayment installment is not a Business Day, such principal repayment installment shall be repaid on the immediately preceding Business Day, and (ii) the final principal repayment installment of Initial Term Loans shall be repaid on the Maturity Date for Initial Term Loans and in any event shall be in an amount equal to the aggregate principal amount of all Initial Term Loans outstanding on such date.

(b) Revolving Credit Loans. The applicable Borrowers shall repay to the Administrative Agent for the ratable account of the Applicable Lenders on the applicable Maturity Date for the Revolving Credit Facility of a given Tranche the aggregate principal amount of all of its Revolving Credit Loans of such Tranche outstanding on such date.

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(c) All Loans shall be repaid, whether pursuant to this Section 2.07 or otherwise, in the currency in which they were made.

Section 2.08 Interest.

(a) Subject to the provisions of the following sentence, (i) each Term Benchmark Loan under a Facility shall bear interest on the outstanding principal amount thereof for each Interest Period at a rate per annum equal to the sum of (A) the Term SOFR Rate for such Interest Period *plus* (B) the Applicable Rate for Term Benchmark Loans under such Facility; and (ii) each Base Rate Loan under a Facility shall bear interest on the outstanding principal amount thereof from the applicable borrowing date or conversion date, as the case may be, at a rate per annum equal to the sum of (A) the Base Rate *plus* (B) the Applicable Rate for Base Rate Loans under such Facility. During the continuance of an Event of Default under Sections 8.01(a), the applicable Borrowers shall pay interest at a fluctuating rate per annum at all times equal to the applicable Default Rate, to the fullest extent permitted by applicable Laws. Accrued and unpaid interest on past due amounts (including interest on past due interest) shall be due and payable upon demand.

(b) Accrued interest on each Loan shall be due and payable in arrears on each Interest Payment Date applicable thereto and at such other times as may be specified herein and shall be paid by the applicable Borrowers; provided that in the event of any repayment or prepayment of any Loan (other than Revolving Credit Loans bearing interest based on the Base Rate that are repaid or prepaid without any corresponding termination or reduction of the Revolving Credit Commitments other than as set forth in Section 2.14(e)), accrued interest on the principal amount repaid or prepaid shall be payable on the date of such repayment or prepayment. Interest hereunder shall be due and payable in accordance with the terms hereof before and after judgment, and before and after the commencement of any proceeding under any Debtor Relief Law.

(c) Interest on each Loan shall be payable in the currency in which each Loan was made unless otherwise agreed by the Administrative Agent in its reasonable discretion.

(d) All computations of interest hereunder shall be made in accordance with Section 2.10 of this Agreement.

Section 2.09 Fees. In addition to certain fees described in Sections 2.03(h) and (i):

(a) Commitment Fee. The Parent Borrower (on behalf of itself and the applicable Subsidiary Borrowers) shall pay to the Administrative Agent for the account of each Revolving Credit Lender in accordance with its Pro Rata Share of each Tranche of the Revolving Credit Facility, a commitment fee equal to the Applicable Commitment Fee *multiplied by* the actual daily amount by which the aggregate Revolving Credit Commitments under such Tranche exceed the sum of (i) the Outstanding Amount of Revolving Credit Loans under such Tranche and (ii) the Outstanding Amount of L/C Obligations under such Tranche, subject to adjustment as provided in Section 2.17. The commitment fee shall accrue at all times from the Closing Date until the Maturity Date for the Revolving Credit Facility, and shall be due and payable quarterly in arrears on the fifteenth (15th) day after the end of each fiscal quarter, commencing with such fifteenth (15th) day after of the first fiscal quarter to end following the Closing Date, and on the Maturity Date for the Revolving Credit Facility.

(b) Other Fees. The applicable Borrowers shall pay to the Lenders, the Arrangers and the Administrative Agent such fees as shall have been separately agreed upon in writing (including pursuant to the Fee Letters) in the amounts and at the times so specified.

Section 2.10 Computation of Interest and Fees. Interest computed by reference to the Term SOFR Rate or Daily Simple SOFR hereunder shall be computed on the basis of a year of 360 days. Interest computed by reference to the Base Rate only at times when the Base Rate is based on the Prime Rate shall be computed on the basis of a year of 365 days (or 366 days in a leap year). In each case interest shall be payable for the actual number of days elapsed (including the first day but excluding the last day). All interest hereunder on any Loan shall be computed on a daily basis based upon the outstanding principal amount of such Loan as of the applicable date of determination. A determination of the applicable Base Rate, Term SOFR Rate or Daily Simple SOFR shall be determined by the Administrative Agent, and such determination shall be conclusive absent manifest error.

Section 2.11 Evidence of Indebtedness.

(a) The Credit Extensions made by each Lender shall be evidenced by one or more accounts or records maintained by such Lender and evidenced by one or more entries in the Register maintained by the Administrative Agent, acting solely for purposes of Treasury Regulations Section 5f.103-1(c), as a non-fiduciary agent for the applicable Borrowers, in each case in the ordinary course of business. The accounts or records maintained by the Administrative Agent and each Lender shall be prima facie evidence absent manifest error of the amount of the Credit Extensions made by the Lenders to the applicable Borrowers and the interest and payments thereon. Any failure to so record or any error in doing so shall not, however, limit the obligation of the applicable Borrowers hereunder to pay any amount owing with respect to the Obligations. In the event of any conflict between the accounts and records maintained by any Lender and the accounts and records of the Administrative Agent in respect of such matters, the accounts and records of the Administrative Agent shall control in the absence of manifest error. Upon the written request of any Lender made through the Administrative Agent, the applicable Borrowers shall promptly execute and deliver to such Lender (through the Administrative Agent) a Note payable to such Lender, which shall evidence such Lender's Loans in addition to such accounts or records. Each Lender may attach schedules to its Note and endorse thereon the date, Type (if applicable), amount and maturity of its Loans and payments with respect thereto.

(b) In addition to the accounts and records referred to in Section 2.11(a), each Lender and the Administrative Agent shall maintain in accordance with its usual practice accounts or records and, in the case of the Administrative Agent, entries in the Register, evidencing the purchases and sales by such Lender of participations in Letters of Credit. In the event of any conflict between the accounts and records maintained by the Administrative Agent and the accounts and records of any Lender in respect of such matters, the accounts and records of the Administrative Agent shall control in the absence of manifest error.

(c) Entries made in good faith by the Administrative Agent in the Register pursuant to Sections 2.11(a) and (b), and by each Lender in its accounts or records pursuant to Sections 2.11(a) and (b), shall be prima facie evidence of the amount of principal and interest due and payable or to become due and payable from the applicable Borrowers to, in the case of the Register, each Lender and, in the case of such accounts or records, such Lender, under this Agreement and the other Loan Documents, absent manifest error; provided that the failure of the Administrative Agent or such Lender to make an entry, or any finding that an entry is incorrect, in the Register or such accounts or records shall not limit the obligations of the applicable Borrowers under this Agreement and the other Loan Documents.

Section 2.12 Payments Generally; Administrative Agent's Clawback.

(a) General. All payments to be made by the applicable Borrowers shall be made without condition or deduction for any counterclaim, defense, recoupment or setoff. Except as otherwise expressly provided herein, all payments by the applicable Borrowers hereunder shall be made to the Administrative Agent, for the account of the respective Lenders to which such payment is owed, at the Administrative Agent's Office in Dollars, and in each case in immediately available funds not later than 2:00 p.m. (New York City time) on the date specified herein. The Administrative Agent will promptly distribute to each Lender its ratable share in respect of the relevant Facility or Tranche thereof (or other applicable share as provided herein) of such payment in like funds as received by wire transfer to such Lender's Lending Office.

All payments received by the Administrative Agent after 2:00 p.m. (New York City time) in the case of payments in Dollars, shall be deemed received on the next succeeding Business Day and any applicable interest or fee shall continue to accrue. If any payment to be made by the Borrowers shall come due on a day other than a Business Day, payment shall be made on the next following Business Day, and such extension of time shall be reflected in computing interest or fees, as the case may be; provided, however, that, if such extension would cause payment of interest on or principal of Term Benchmark Loans to be made in the next succeeding calendar month, such payment shall be made on the immediately preceding Business Day.

(b) (i) Funding by Lenders: Presumption by Administrative Agent. Unless the Administrative Agent shall have received notice from a Lender prior to the proposed date of any Borrowing of Term Benchmark Loans (or, in the case of any Borrowing of Base Rate Loans, prior to 1:00 p.m. (New York City time) on the date of such Borrowing) that such Lender will not make available to the Administrative Agent such Lender's share of such Borrowing, the Administrative Agent may assume that such Lender has made such share available on such date in accordance with and at the time required by Section 2.02(b) and may, in reliance upon such assumption, make available to the applicable Borrowers a corresponding amount. In such event, if any Lender does not in fact make its share of the applicable Borrowing available to the Administrative Agent, then such Lender and the Borrowers severally agree to pay to the Administrative Agent forthwith on demand an amount equal to such applicable share in immediately available funds with interest thereon, for each day from and including the date such amount is made available to the Borrowers by the Administrative Agent to but excluding the date of payment to the Administrative Agent, at (A) in the case of a payment to be made by such Lender, the greater of the Overnight Rate and a rate reasonably determined by the Administrative Agent in accordance with banking industry rules on interbank compensation, *plus* any reasonable administrative, processing or similar fees customarily charged by the Administrative Agent in connection with the foregoing and (B) in the case of a payment to be made by the Borrowers, the interest rate applicable to Base Rate Loans under the applicable Facility. If both the Borrowers and such Lender pay such interest to the Administrative Agent for the same or an overlapping period, the Administrative Agent shall promptly remit to the Borrowers the amount of such interest paid by the Borrowers for such period. If such Lender pays its share of the applicable Borrowing to the Administrative Agent, then the amount so paid (less interest and fees) shall constitute such Lender's Loan included in such Borrowing. Any payment by the Borrowers shall be without prejudice to any claim the Borrowers may have against a Lender that shall have failed to make its share of any Borrowing available to the Administrative Agent.

(ii) Payments by the Borrowers: Presumptions by Administrative Agent. Unless the Administrative Agent shall have received notice from the Borrowers prior to the date on which any payment is due to the Administrative Agent for the account of the Lenders or an L/C Issuer hereunder that the applicable Borrowers will not make such payment, the Administrative Agent may assume that the applicable Borrowers have made such payment on such date in accordance herewith and may, in reliance upon such assumption, distribute to the Appropriate Lenders or the applicable L/C Issuer, as the case may be, the amount due. In such event, if the applicable Borrowers do not in fact make such payment, then each of the Appropriate Lenders or the applicable L/C Issuer, as the case may be, severally agrees to repay to the Administrative Agent forthwith on demand the amount so distributed to such Lender or such L/C Issuer, in immediately available funds with interest thereon, for each day from and including the date such amount is distributed by the Administrative Agent to it but excluding the date of payment to the Administrative Agent, at the greater of the Overnight Rate and a rate reasonably determined by the Administrative Agent in accordance with banking industry rules on interbank compensation, *plus* any reasonable administrative, processing or similar fees customarily charged by the Administrative Agent in connection with the foregoing.

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A notice of the Administrative Agent to any Lender or the Borrowers with respect to any amount owing under this Section 2.12(b) shall be conclusive, absent manifest error.

(c) Failure to Satisfy Conditions Precedent. If any Lender makes available to the Administrative Agent funds for any Loan to be made by such Lender as provided in the foregoing provisions of this Article II, and such funds are not made available to the applicable Borrowers by the Administrative Agent because the conditions to the applicable Credit Extension set forth in Article IV are not satisfied or waived in accordance with the terms hereof, the Administrative Agent shall return such funds (in like funds as received from such Lender) to such Lender on demand, without interest.

(d) Obligations of the Lenders Several. The obligations of the Lenders hereunder to make Loans, to fund participations in Letters of Credit and to make payments pursuant to Section 9.07 are several and not joint. The failure of any Lender to make any Loan or to fund any such participation or to make any payment under Section 9.07 on any date required hereunder shall not relieve any other Lender of its corresponding obligation to do so on such date, and no Lender shall be responsible for the failure of any other Lender to so make its Loan or, to fund its participation or to make its payment under Section 9.07.

(e) Funding Source. Nothing herein shall be deemed to obligate any Lender to obtain the funds for any Loan in any particular place or manner or to constitute a representation by any Lender that it has obtained or will obtain the funds for any Loan in any particular place or manner.

(f) Insufficient Funds. If at any time insufficient funds are received by and available to the Administrative Agent to pay fully all amounts of principal, L/C Borrowings, interest and fees then due hereunder, such funds shall be applied (i) first, toward payment of interest and fees then due hereunder, ratably among the parties entitled thereto in accordance with the amounts of interest and fees then due to such parties, and (ii) second, toward payment of principal and L/C Borrowings then due hereunder, ratably among the parties entitled thereto in accordance with the amounts of principal and L/C Borrowings then due to such parties.

(g) Unallocated Funds. If the Administrative Agent receives funds for application to the Obligations of the Loan Parties or Grantors under or in respect of the Loan Documents under circumstances for which the Loan Documents do not specify the manner in which such funds are to be applied, the Administrative Agent may, but shall not be obligated to, elect to distribute such funds to each of the Lenders in accordance with such Lender's ratable share of the sum of (i) the Outstanding Amount of all Loans outstanding at such time and (ii) the Outstanding Amount of all L/C Obligations outstanding at such time, in repayment or prepayment of such of the outstanding Loans or other Obligations then owing to such Lender.

Section 2.13 Sharing of Payments. If, other than as expressly provided elsewhere herein (including the application of funds arising from the existence of a Defaulting Lender), any Lender shall obtain on account of the Loans made by it or the participations in L/C Obligations held by it, any payment (whether voluntary, involuntary, through the exercise of any right of setoff, or otherwise) in excess of its ratable share (or other share contemplated hereunder) thereof, such Lender shall immediately (a) notify the Administrative Agent of such fact and (b) purchase from the other Lenders such participations in the Loans made by them and/or such subparticipations in the participations in L/C Obligations held by them, as the case may be, as shall be necessary to cause such purchasing Lender to share the excess payment in respect of such Loans or such participations, as the case may be, pro rata with each of them; provided, however, that if all or any portion of such excess payment is thereafter recovered from the purchasing Lender under any of the circumstances described in Section 10.06 (including pursuant to any settlement entered into by the purchasing Lender in its discretion), such purchase shall to that extent be rescinded and each other Lender shall repay to the purchasing Lender the purchase price paid therefor, together with an amount equal to such paying Lender's ratable share (according to the proportion of (i) the amount of such paying Lender's

required repayment to (ii) the total amount so recovered from the purchasing Lender) of any interest or other amount paid or payable by the purchasing Lender in respect of the total amount so recovered, without further interest thereon. The Borrowers agree that any Lender so purchasing a participation from another Lender may, to the fullest extent permitted by Law, exercise all its rights of payment (including the right of setoff, but subject to Section 10.09) with respect to such participation as fully as if such Lender were the direct creditor of each Borrower in the amount of such participation. The Administrative Agent will keep records (which shall be conclusive and binding in the absence of manifest error) of participations purchased under this Section 2.13 and will in each case notify the Lenders following any such purchases or repayments. Each Lender that purchases a participation pursuant to this Section 2.13 shall from and after such purchase have the right to give all notices, requests, demands, directions and other communications under this Agreement with respect to the portion of the Obligations purchased to the same extent as though the purchasing Lender were the original owner of the Obligations purchased. For the avoidance of doubt, the provisions of this Section shall not be construed to apply to (A) the application of Cash Collateral provided for in Section 2.16, (B) the assignments and participations (including by means of a Dutch Auction and open market debt repurchases) described in Section 10.07, (C) (i) the incurrence of any New Term Loans in accordance with Section 2.14, (ii) the prepayment of Revolving Credit Loans in accordance with Section 2.14(e) in connection with a Revolving Credit Commitment Increase or (iii) any Specified Refinancing Debt in accordance with Section 2.18, (D) any loan modification offer described in Section 10.01, (E) any Extension described in Section 2.22 or (F) any applicable circumstances contemplated by Sections 2.05(b), 2.14, 2.16, 2.17 or 3.08.

#### Section 2.14 Incremental Facilities.

(a) The Borrowers may, from time to time after the Closing Date, arrange an incremental Facility (with such Person arranging such Facility (who may be (x) the Administrative Agent or (y) any other Person appointed by the Borrower Representative), the “Incremental Arranger”) with such Facility being (i) an increase in the Commitments under any Revolving Tranche (which shall be on the same terms as, and become part of, the Revolving Tranche proposed to be increased) (each, a “Revolving Credit Commitment Increase”), (ii) an increase in any Term Loan Tranche then outstanding (which shall be on the same terms as, and become part of, the Term Loan Tranche proposed to be increased hereunder (except as otherwise provided in clause (d) below with respect to amortization)) (each, a “Term Commitment Increase”), (iii) the addition of one or more new revolving credit facilities to the Facilities (each, a “New Revolving Facility” and, any advance made by a Lender thereunder, a “New Revolving Loan”; and the commitments thereof, the “New Revolving Commitment”) and (iv) the addition of one or more new term loan facilities (each, a “New Term Facility”; and any advance made by a Lender thereunder, a “New Term Loan”; and the commitments thereof, the “New Term Commitment” and together with the Revolving Credit Commitment Increase, the New Revolving Commitments and the Term Commitment Increase, the “New Loan Commitments”) in an amount not to exceed the sum of:

(x) the greater of (A) \$1,300,000,000 and (B) 100% of the EBITDA Grower Amount (the “Cash-Capped Incremental Facility”), less amounts Incurred in reliance on the Cash-Capped Incremental Facility basket pursuant to Section 2.15,

(y) an unlimited amount (the “Ratio-Based Incremental Facility”) so long as the Maximum Leverage Requirement is satisfied, and

(z) an amount equal to (i) (A) all voluntary prepayments of pari passu Term Loans (including, for the avoidance of doubt, any New Term Loans incurred in reliance on the Cash-Capped Incremental Facility basket that are pari passu in right of payment and security with the Initial Term Loans) made pursuant to Section 2.05(a) and (B) all redemptions, repurchases and cancellations of pari passu Term Loans (including, for the avoidance of doubt, any pari passu New Term Loans incurred



in reliance on the Cash-Capped Incremental Facility basket) made pursuant to the terms hereof, (ii) voluntary prepayments of Revolving Credit Loans (including, for the avoidance of doubt, any New Revolving Loans incurred in reliance on the Cash-Capped Incremental Facility basket) made pursuant to Section 2.05(a) to the extent accompanied by a corresponding, permanent reduction in the Revolving Credit Commitments pursuant to Section 2.06(a), in each case, to the extent not funded with the proceeds of long-term Indebtedness (excluding, for the avoidance of doubt, proceeds of any revolving credit facility (including the Revolving Credit Facility)) and (iii) all voluntary prepayments and all repurchases, redemptions and cancellations of other Indebtedness incurred in reliance on the Cash-Capped Incremental Facility basket (but with respect to any revolving Indebtedness, only to the extent accompanied by a corresponding permanent reduction in the underlying commitments) including, for the avoidance of doubt, any Incremental Equivalent Debt, that is secured on a pari passu basis with the Initial Term Loans (in each case, with credit given for the principal amount of the Loans or Indebtedness so prepaid, retired or repurchased and solely to the extent any such prepayment, repurchase, redemption or cancellation is not funded with the proceeds of long-term Indebtedness (but excluding, for the avoidance of doubt, proceeds of any revolving credit facility (including the Revolving Credit Facility))) (the “Prepayment-Based Incremental Facility.”)

(such sum of the amounts set forth in the foregoing clauses (x) through (z), at any such time and subject to Section 1.02(i), the “Incremental Amount”); provided that any such request for an increase shall be in a minimum amount of the lesser of (x) \$1,000,000 and (y) the entire amount of any increase that may be requested under this Section 2.14; provided, further, that for purposes of any New Loan Commitments established pursuant to this Section 2.14 and Incremental Equivalent Debt incurred pursuant to Section 2.15:

(A) At the Borrowers’ option, the Borrowers shall be deemed to have used amounts under the Ratio-Based Incremental Facility (to the extent compliant therewith), prior to utilization of the Prepayment-Based Incremental Facility and the Cash-Capped Incremental Facility, and the Borrowers shall be deemed to have used the Prepayment-Based Incremental Facility prior to utilization of the Cash-Capped Incremental Facility,

(B) New Loan Commitments established pursuant to this Section 2.14 and Incremental Equivalent Debt issued pursuant to Section 2.15 may be incurred under the Ratio-Based Incremental Facility (to the extent compliant therewith), the Cash-Capped Incremental Facility and the Prepayment-Based Incremental Facility, and proceeds from any such incurrence may be utilized in a single transaction or series of related transactions by, at Parent Borrower’s option, first calculating the incurrence under the Ratio-Based Incremental Facility (without inclusion of any amounts substantially concurrently utilized pursuant to the Cash-Capped Incremental Facility, the Prepayment-Based Incremental Facility, the Revolving Credit Facility or any amounts substantially concurrently incurred under Section 7.01 (other than any Ratio Debt or Acquisition Ratio Debt incurred pursuant to Section 7.01)) and then calculating the incurrence under the Prepayment-Based Incremental Facility (without inclusion of any amounts utilized pursuant to the Cash-Capped Incremental Facility) and then calculating the incurrence under the Cash-Capped Incremental Facility,

(C) unless the Borrower Representative elects otherwise, all or any portion of Indebtedness originally designated as incurred under the Cash-Capped Incremental Facility or the Prepayment-Based Incremental Facility shall automatically be deemed to have been incurred under the Ratio-Based Incremental Facility from and after the first date on which the Borrowers would be permitted to incur all or such portion, as applicable, of the aggregate principal amount of such Indebtedness under the Ratio-Based Incremental Facility (which, for the avoidance of doubt, shall have the effect of increasing the Cash-Capped Incremental Facility and/or the Prepayment-Based Incremental Facility, as applicable, by the amount of such redesignated Indebtedness) and

(D) solely for the purpose of calculating the Consolidated First Lien Net Leverage Ratio, the Consolidated Secured Net Leverage Ratio or the Consolidated Total Net Leverage Ratio to determine the availability under the Ratio-Based Incremental Facility at the time of incurrence, any cash proceeds incurred pursuant to this Section 2.14 and/or Incremental Equivalent Debt being incurred at such test date in calculating such Consolidated First Lien Net Leverage Ratio, Consolidated Secured Net Leverage Ratio or Consolidated Total Net Leverage Ratio shall be excluded for purposes of calculating unrestricted cash or Cash Equivalents; provided, however, that any use of such cash proceeds to repay Indebtedness shall be given pro forma effect as contemplated by the definition of “Pro Forma Basis”.

The Borrowers may designate any Incremental Arranger of any New Loan Commitments with such titles under the New Loan Commitments as the Borrowers may deem appropriate.

(b) For the avoidance of doubt, the Borrowers will not be obligated to approach any Lender to participate in any New Loan Commitments. Any Lender approached to participate in any New Loan Commitments may elect or decline, in its sole discretion, to participate in such increase or new facility. The Borrowers may also invite additional Eligible Assignees reasonably satisfactory to the Incremental Arranger and, solely in connection with a Revolving Credit Commitment Increase or New Revolving Facility, with the consent of the Administrative Agent and each L/C Issuer (to the extent the consent of any of the foregoing would be required to assign Revolving Credit Loans to such Eligible Assignee, which consent shall not be unreasonably withheld, delayed or conditioned) to become Lenders pursuant to a joinder agreement to this Agreement.

(c) If (i) a Revolving Tranche or a Term Loan Tranche is increased in accordance with this Section 2.14 or (ii) a New Term Facility or New Revolving Facility is added in accordance with this Section 2.14, the Incremental Arranger and the Borrower Representative shall determine the effective date (the “Increase Effective Date”) and the final allocation of such increase, New Term Facility or New Revolving Facility among the applicable Lenders. The Incremental Arranger shall promptly notify the applicable Lenders of the final allocation of such increase, New Term Facility or New Revolving Facility and the Increase Effective Date. In connection with (A) any increase in a Term Loan Tranche or Revolving Tranche or (B) any addition of a New Term Facility or New Revolving Facility, in each case, pursuant to this Section 2.14, this Agreement and the other Loan Documents may be amended in writing (which may be executed and delivered by the Borrowers, the Administrative Agent and the Incremental Arranger (and the Lenders hereby authorize the Administrative Agent and any such Incremental Arranger to execute and deliver any such documentation)) in order to establish the New Term Facility or New Revolving Facility or to effectuate the increases to the Term Loan Tranche or Revolving Tranche and to reflect any technical changes necessary or appropriate to give effect to such increase or new facility in accordance with its terms as set forth herein pursuant to the documentation relating to such New Term Facility or New Revolving Facility. As of the Increase Effective Date, in the case of an increase to an existing Term Loan Tranche, the amortization schedule for the Term Loan Tranche then increased set forth in Section 2.07(a) (or any other applicable amortization schedule for New Term Loans or Specified Refinancing Term Loans) shall be amended in writing (which may be executed and delivered by the Borrowers, the Administrative Agent and the Incremental Arranger (and the Lenders hereby authorize the Administrative Agent and any such Incremental Arranger to execute and deliver any such documentation)) to increase the then-remaining unpaid installments of principal by an aggregate amount equal to the additional Loans under such Term Loan Tranche being made on such date, such aggregate amount to be applied to increase such installments ratably in accordance with the amounts in effect immediately prior to the Increase Effective Date.

(d) With respect to any Revolving Credit Commitment Increase, Term Commitment Increase or addition of New Term Facility or New Revolving Facility pursuant to this Section 2.14, (i) subject to Section 1.02(i) with respect to timing of such determination, no Event of Default under Section 8.01(a), or (in each case, solely with respect to the Borrowers) Section 8.01(f) or (g) would exist immediately after giving effect to such increase or, in the case of a transaction governed by Section 1.02(i), no Event of Default exists as of the Transaction Commitment Date; (ii) (A) in the case of any New Revolving Facility, (1) the final maturity shall be no earlier than the Maturity Date applicable to the Revolving Credit Facility, and (2) no amortization or mandatory commitment reduction prior to the Maturity Date applicable to the Revolving Credit Facility shall be required, and (B) in the case of any New Term Facility, other than in the case of Extendable Bridge Loans/Interim Debt and amounts not in excess of the Inside Maturity Basket at the time of Incurrence, such New Term Facility shall have a final maturity no earlier than the then Latest Maturity Date of any then-outstanding Initial Term Loans and the Weighted Average Life to Maturity of such New Term Facility shall be no shorter than that of any then-outstanding Initial Term Loans; (iii) except with respect to the All-in Yield and as set forth in subclause (B) above with respect to final maturity and Weighted Average Life to Maturity, any such New Term Facility or New Revolving Facility shall have terms reasonably satisfactory to the Administrative Agent; and (iv) to the extent reasonably requested by the Incremental Arranger and expressly set forth in the documentation relating to such New Term Facility or New Revolving Facility, the Administrative Agent shall have received legal opinions, resolutions, officers' certificates, reaffirmation agreements and/or subsequent ranking agreements or amendment agreements to, confirmations of and/or lower ranking Collateral Documents, as applicable, consistent with those delivered on the Closing Date under Section 4.01 or delivered from time to time pursuant to Section 6.12 and/or Section 6.16 with respect to the Borrowers and each material Subsidiary Guarantor that is organized in a jurisdiction for which counsel to the Administrative Agent advises that such deliveries are reasonably necessary to preserve the Collateral in such jurisdiction (other than changes to such legal opinions resulting from a change in Law, change in fact or change to counsel's form of opinion). Subject to the foregoing, the conditions precedent to each such increase or New Loan Commitment shall be solely those agreed to by the Lenders providing such increase or New Loan Commitment, as applicable, and the Borrowers. Notwithstanding the foregoing, (x) the terms of any New Revolving Facility shall be substantially identical to, or (taken as a whole) not materially more favorable (as determined by the Parent Borrower in good faith) to the Lenders providing such New Revolving Facility than, the terms applicable to the Revolving Credit Facility, except for (1) payments of interest and fees at different rates and optional prepayment or redemption terms, (2) terms that are applicable only after the then Latest Maturity Date of the Revolving Credit Facility, (3) terms that are made for the benefit of the Revolving Credit Lenders or (4) terms that are otherwise reasonably acceptable to the Administrative Agent, and (y) the terms of any New Term Facility or New Revolving Facility may be (but are not required to be) incorporated if otherwise reasonably satisfactory to Parent Borrower, the Incremental Arranger and the Administrative Agent. To the extent the Borrowers establish a New Revolving Facility, then the Administrative Agent and the Borrowers shall amend this Agreement, if applicable, to require borrowings and repayments on a pro rata basis among Revolving Tranches (except for (A) payments of interest and fees at different rates on the Revolving Credit Commitments (and related outstandings), (B) repayments required upon the Maturity Date of any Revolving Credit Loan and (C) repayments made in connection with a permanent repayment and termination of the Revolving Credit Loans or Revolving Credit Commitments of Revolving Credit Loans after the effective date of such New Revolving Facility).

(e) On the Increase Effective Date with respect to an increase to an existing Revolving Tranche, (x) each Revolving Credit Lender immediately prior to such increase will automatically and without further act be deemed to have assigned to each Lender providing a portion of the increase to the Revolving Credit Commitments (each, a “Revolving Commitment Increase Lender”), and each such Revolving Commitment Increase Lender will automatically and without further act be deemed to have assumed, a portion of such Revolving Credit Lender’s participations hereunder in outstanding L/C Obligations such that, after giving effect to each such deemed assignment and assumption of participations, the percentage of the aggregate outstanding participations hereunder in L/C Obligations will equal the Pro Rata Share of the aggregate Revolving Credit Commitments of all Revolving Credit Lenders represented by such Revolving Credit Lender’s Revolving Credit Commitment and (y) if, on the date of such increase, there are any Revolving Credit Loans outstanding, such Revolving Credit Loans shall on or prior to the Increase Effective Date be prepaid from the proceeds of Revolving Credit Loans made hereunder (reflecting such increase in Revolving Credit Commitments), which prepayment shall be accompanied by accrued interest on the Revolving Credit Loans being prepaid and any costs incurred by any Lender in accordance with Section 3.06. The Administrative Agent and the Lenders hereby agree that the minimum borrowing, pro rata borrowing and pro rata payment requirements contained elsewhere in this Agreement shall not apply to the transactions effected pursuant to the immediately preceding sentence. The additional Term Loans made under the Term Loan Tranche subject to the increases shall be made by the applicable Lenders participating therein pursuant to the procedures set forth in Sections 2.01 and 2.02 and on the date of the making of such new Term Loans, and notwithstanding anything to the contrary set forth in Sections 2.01 and 2.02, such new Term Loans shall be added to (and form part of) each Borrowing of outstanding Term Loans under such Term Loan Tranche on a pro rata basis (based on the relative sizes of the various outstanding Borrowings), so that each Lender under such Term Loan Tranche will participate proportionately in each then outstanding Borrowing of Term Loans under the Term Loan Tranche.

(f) (i) Each New Revolving Facility and New Term Facility shall rank pari passu in right of payment with the other Facilities, not be Guaranteed by any Restricted Subsidiary that is not a Borrower or Subsidiary Guarantor under each of the other Facilities (provided that, for the avoidance of doubt, any New Revolving Facility and New Term Facility need not be Guaranteed by all Loan Parties under the other Facilities) and shall be either unsecured or secured by the Collateral (and, to the extent secured by the Collateral, secured either on a first lien “equal and ratable” basis with the other Facilities or on a “junior” basis with the other Facilities, in each case over the same (or less) Collateral that secures the Facilities (and in each case, such New Revolving Facility or New Term Facility shall be subject to the Applicable Intercreditor Arrangements)); (ii) any New Term Facility shall share ratably (or on a lesser basis) with respect to any mandatory prepayments of the Term Facilities (other than mandatory prepayments resulting from a refinancing of any Facility, which may be applied exclusively to the applicable Term Loan Tranche or Revolving Tranche being refinanced); and (iii) with respect to any New Term Facility that is in the form of term loans, is pari passu in right of payment with the Term Facilities, is secured on a pari passu basis with the Term Facilities and is incurred prior to the date that is twelve (12) months after the Closing Date, the All-in Yield payable by the Borrowers applicable to such New Term Facility shall be determined by the Borrowers and the Lenders providing such New Term Facility and shall not, be more than 50 basis points higher than the corresponding All-in Yield payable by the Borrowers for the Initial Term Loans (in the case of a New Term Facility in the form of Term Loans (or similar Indebtedness)), unless the All-in Yield with respect to the Initial Term Loans is increased to the amount necessary so that the difference between the All-in Yield with respect to such New Term Facility, and the All-in Yield on the Initial Term Loans is equal to 50 basis points (this clause (iii), the “MFN Provision”); provided that this clause (iii) shall not apply to any New Term Facility that (A) has a final maturity later than one (1) year after the Latest Maturity Date of the then outstanding Term Loans, (B) has an initial maturity of one (1) year or less and is Incurred as a bridge financing which, subject to customary conditions, provides for conversion or exchange into Indebtedness that otherwise is permitted to be Incurred under this Agreement, (C) is incurred in connection with an acquisition or other Investment permitted under this Agreement or (D) is in an amount less than or equal to (1) \$975,000,000 and (2) 75% of the EBITDA Grower Amount (the proviso to this clause (iii), the “MFN Exceptions”).

(g) If the Incremental Arranger is not the Administrative Agent, the actions authorized to be taken by the Incremental Arranger herein shall be done in consultation with the Administrative Agent and, with respect to the preparation of any documentation necessary or appropriate to carry out the provisions of this Section 2.14 (including amendments to this Agreement and the other Loan Documents), any comments to such documentation reasonably requested by the Administrative Agent with respect to administrative matters shall be reflected therein.

(h) [Reserved].

(i) To the extent any Guarantee or security granted prior to the date of incurrence under this Section 2.14 to support the Obligations in any jurisdiction requires application, registration or similar steps to be taken in such jurisdiction for any New Revolving Facility, Revolving Credit Commitment Increase, New Term Facility, and/or Term Commitment Increase which the applicable Borrower and the lenders under such facility desire to benefit on a pari passu basis from such Guarantees and/or such security are not obtained prior to such incurrence, such inability to complete such application, registration, filing or equivalent perfection requirements shall not be deemed to adversely impact the pari passu nature of such applicable facility hereunder and the relevant provisions of this Agreement (including Section 2.03 and 8.04) shall be interpreted as if such applicable facility benefits from such Guarantee or security.

#### Section 2.15 Incremental Equivalent Debt.

(a) The Borrowers or any Guarantor may from time to time after the Closing Date issue one or more series of senior secured, senior unsecured, senior subordinated, subordinated notes, loans or Extendable Bridge Loans/Interim Debt (which notes, loans and/or Extendable Bridge Loans/Interim Debt, shall be either unsecured or secured by the Collateral (and, to the extent secured by the Collateral, secured either on a first lien “equal and ratable” basis with the other Facilities or on a “junior” basis with the other Facilities, in each case over the same (or less) Collateral that secures the Facilities (and in each case, shall be subject to the Applicable Intercreditor Arrangements))) and shall not be guaranteed by any Restricted Subsidiary that is not a Borrower or Subsidiary Guarantor under the Facilities (such notes, loans and/or Extendable Bridge Loans/Interim Debt, collectively, “Incremental Equivalent Debt”) in an amount not to exceed the Incremental Amount (at the time of incurrence, subject to Section 1.02(i)); provided that (i) subject to Section 1.02(i), no Event of Default under Section 8.01(a), or (in each case, solely with respect to the Borrowers) Sections 8.01(f) or (g) would exist immediately after giving Pro Forma Effect to any such request, and (ii) any such incurrence of Incremental Equivalent Debt shall be in a minimum amount of the lesser of (x) \$1,000,000 and (y) the entire amount that may be requested under this Section 2.15; provided, further, that any New Loan Commitments established pursuant to Section 2.14 and Incremental Equivalent Debt issued pursuant to this Section 2.15, (A) Incremental Equivalent Debt issued pursuant to this Section 2.15 may be incurred under the Ratio-Based Incremental Facilities, the Cash-Capped Incremental Facilities and the Prepayment-Based Incremental Facilities, and proceeds from any such incurrence may be utilized in a single transaction or series of related transactions, at the Parent Borrower’s option, by first calculating the incurrence under the Ratio-Based Incremental Facilities (without inclusion of any amounts substantially concurrently utilized pursuant to the Cash-Capped Incremental Facility or the Prepayment-Based Incremental Facility or the Revolving Credit Facility or any amounts substantially concurrently incurred under Section 7.01 (other than any Ratio Debt or Acquisition Ratio Debt incurred pursuant to Section 7.01)) and then calculating the incurrence under the Prepayment-Based Incremental Facility (without inclusion of any amounts utilized pursuant to the Cash-Capped Incremental Facility) and then calculating the incurrence under the Cash-Capped Incremental Facility and (B) unless the Borrower Representative elects otherwise, all or any portion of Incremental Equivalent Debt originally designated as incurred under the Cash-Capped Incremental Facility or the Prepayment-Based Incremental Facility shall automatically be deemed to have been incurred under the Ratio-Based Incremental Facility from and after the first date on which the Borrowers would be permitted to incur all or such portion, as applicable, of the aggregate principal amount

of such Indebtedness under the Ratio-Based Incremental Facility (which, for the avoidance of doubt, shall have the effect of increasing the Cash-Capped Incremental Facility or the Prepayment-Based Incremental Facility, as applicable, by the amount of such redesignated Incremental Equivalent Debt). The Borrowers may appoint any Person as arranger of such Incremental Equivalent Debt (such Person (who may be the Administrative Agent, if it so agrees), the “Incremental Equivalent Debt Arranger”).

(b) As a condition precedent to the incurrence of any Incremental Equivalent Debt pursuant to this Section 2.15, (i) such Incremental Equivalent Debt shall not be Guaranteed by any Restricted Subsidiary that is not a Loan Party or that does not become a Loan Party (provided that, for the avoidance of doubt, any Incremental Equivalent Debt need not be Guaranteed by all Loan Parties under the other Facilities), (ii) (A) to the extent secured by the Collateral, such Incremental Equivalent Debt shall be subject to the Applicable Intercreditor Arrangements and (B) to the extent subordinated, such Incremental Equivalent Debt shall be subject to customary subordination provisions reasonably acceptable to the Administrative Agent, (iii) such Incremental Equivalent Debt shall have a final maturity no earlier than the then Latest Maturity Date; provided that Extendable Bridge Loans/Interim Debt, customary escrow arrangements and Incremental Equivalent Debt in an amount not in excess of the Inside Maturity Basket at the time of Incurrence may have a maturity date earlier than the Latest Maturity Date, (iv) the Weighted Average Life to Maturity of such Incremental Equivalent Debt shall not be shorter than that of any then-existing Term Loan Tranche; provided that, with respect to Extendable Bridge Loans/Interim Debt and Incremental Equivalent Debt in an amount not in excess of the Inside Maturity Basket at the time of Incurrence, the Weighted Average Life to Maturity thereof may be shorter than the then longest remaining Weighted Average Life to Maturity of any then outstanding Term Loans, (v) such Incremental Equivalent Debt (other than any Extendable Bridge Loans/Interim Debt) shall not be subject to any mandatory redemption or mandatory prepayment provisions or rights (except to the extent any such mandatory redemption or mandatory prepayment is required to be applied pro rata (or greater than pro rata) to the Term Loans in relation to such Incremental Equivalent Debt that shares in such mandatory redemption or mandatory prepayment), (vi) any Incremental Equivalent Debt in the form of term loans and pari passu in right of payment with the Term Facilities and secured on a pari passu basis with the Term Facilities will be subject to the MFN Provision (including all MFN Exceptions) as if such Incremental Equivalent Debt was a New Term Facility and (vii) the covenants and events of default (excluding any pricing, interest rate margins, rate floors, discounts, fees, premiums, prepayment premiums and optional prepayment and optional redemption terms) of such Incremental Equivalent Debt are, taken as a whole, not materially more favorable to the creditors providing such Incremental Equivalent Debt than those applicable to the Facilities (taken as a whole) (as reasonably determined by the Borrower Representative in good faith) unless such provisions shall be customary for similar debt securities or loans in light of then-prevailing market terms and conditions (taken as a whole) at the time of incurrence (as reasonably determined by the Borrower Representative in good faith) (it being understood that (A) no Incremental Equivalent Debt in the form of term loans or notes shall include any financial maintenance covenants, but that customary cross-acceleration provisions may be included and (B) any negative covenants with respect to indebtedness, investments, liens or restricted payments shall be incurrence-based; provided that any such negative covenants applicable to Extendable Bridge Loans/Interim Debt may be maintenance covenants) (provided that, at the Parent Borrower’s option, delivery of a certificate of a Responsible Officer of the Parent Borrower to the Administrative Agent in good faith at least three (3) Business Days (or such shorter period as may be agreed by the Administrative Agent) prior to the incurrence of such Incremental Equivalent Debt, together with a reasonably detailed description of the material terms and conditions of such Incremental Equivalent Debt or drafts of the documentation relating thereto, stating that the Parent Borrower has determined in good faith that such terms and conditions satisfy the requirement set forth in this clause (b), shall be conclusive evidence that such terms and conditions satisfy such requirement unless the Administrative Agent provides notice to the Parent Borrower of its objection during such three Business Day period (including a reasonable description of the basis upon which it objects)); provided, however, that such Incremental Equivalent Debt may provide for any additional or different financial or other covenants

or other provisions that (1) are agreed among the Borrowers and the creditors thereof and applicable only during periods after the then Latest Maturity Date in effect or (2) are incorporated into this Agreement (or any other applicable Loan Document) for the benefit of all existing Lenders (to the extent applicable to such Lender) by an amendment to this Agreement (which amendment shall require only the consent of the Borrowers and the Administrative Agent without further Lender voting requirements). Subject to the foregoing, the conditions precedent to each such incurrence shall be agreed to by the creditors providing such Incremental Equivalent Debt and the Borrowers.

(c) The Lenders hereby authorize the Administrative Agent and the Incremental Equivalent Debt Arranger (and the Lenders hereby authorize the Administrative Agent and the Incremental Equivalent Debt Arranger to execute and deliver such amendments) to enter into amendments to this Agreement and the other Loan Documents with the Borrowers as may be necessary in order to secure any Incremental Equivalent Debt with the Collateral and/or to make such technical amendments as may be necessary or appropriate in the reasonable opinion of the Administrative Agent and the Borrowers in connection with the incurrence of such Incremental Equivalent Debt, in each case on terms consistent with this Section 2.15. If the Incremental Equivalent Debt Arranger is not the Administrative Agent, the actions authorized to be taken by the Incremental Equivalent Debt Arranger herein shall be done in consultation with the Administrative Agent and, with respect to applicable documentation (including amendments to this Agreement and the other Loan Documents), any comments to such documentation reasonably requested by the Administrative Agent with respect to administrative matters shall be reflected therein.

#### Section 2.16 Cash Collateral.

(a) Upon the request of the Administrative Agent or the applicable L/C Issuer under any Revolving Tranche (i) if the applicable L/C Issuer has honored any full or partial drawing request under any Letter of Credit issued under such Tranche and such drawing has resulted in an L/C Borrowing or (ii) if, as of the Letter of Credit Expiration Date, any L/C Obligation for any reason remains outstanding under such Tranche, the Borrowers shall, in each case, promptly deliver to the Administrative Agent Cash Collateral in an amount sufficient to cover 103% of the then Outstanding Amount of all L/C Obligations. At any time that there shall exist a Defaulting Lender, promptly upon the request of the Administrative Agent or the applicable L/C Issuer, the Borrowers shall deliver to the Administrative Agent Cash Collateral in an amount sufficient to cover 103% of all Fronting Exposure of such Defaulting Lender after giving effect to Section 2.17(a)(iv) and any Cash Collateral provided by such Defaulting Lender.

(b) All Cash Collateral (other than credit support not constituting funds subject to deposit) shall be maintained in blocked deposit accounts at the Administrative Agent (or other financial institution selected by it). The Borrowers, and to the extent provided by any Lender, such Lender, hereby grants to (and subjects to the control of) the Administrative Agent, for the benefit of the applicable L/C Issuer and the Revolving Credit Lenders, and agrees to maintain, a first priority security interest in all such cash, deposit accounts and all balances therein, and all other property so provided as collateral pursuant hereto, and in all proceeds of the foregoing, all as security for the obligations to which such Cash Collateral may be applied pursuant to Section 2.16(c). If at any time the Administrative Agent determines that Cash Collateral is subject to any right or claim of any Person other than the Administrative Agent as herein provided or that the total amount of such Cash Collateral is less than the applicable Fronting Exposure and other obligations secured thereby, the Borrowers and the relevant Defaulting Lender shall, promptly upon demand by the Administrative Agent, pay or provide to the Administrative Agent additional Cash Collateral in an amount sufficient to eliminate such deficiency.

(c) Notwithstanding anything to the contrary contained in this Agreement, Cash Collateral provided under any of this Section 2.16 or Sections 2.03, 2.05, 2.06, 2.17, 8.02 or 8.04 in respect of Letters of Credit shall be held and applied to the satisfaction of the specific L/C Obligations, obligations to fund participations therein (including, as to Cash Collateral provided by a Defaulting Lender, any interest accrued on such obligation) and other obligations for which the Cash Collateral was so provided prior to any other application of such property as may be provided for herein.

(d) Cash Collateral (or the appropriate portion thereof) provided to reduce Fronting Exposure or other obligations shall be released promptly following (i) the elimination of the applicable Fronting Exposure (after giving effect to such release) or other obligations giving rise thereto (including by the termination of Defaulting Lender status of the applicable Lender (or, as appropriate, its assignee following compliance with Section 10.07(b) (yiii))) or (ii) the Administrative Agent's good faith determination that there exists excess Cash Collateral; provided, however, (x) that Cash Collateral furnished by or on behalf of a Loan Party shall not be released during the continuance of a Default under Sections 8.01(a), (f) or (g) or an Event of Default (and following application as provided in this Section 2.16 may be otherwise applied in accordance with Section 8.04) and (y) the Person providing Cash Collateral and the applicable L/C Issuer may agree that Cash Collateral shall not be released but instead held to support future anticipated Fronting Exposure or other obligations.

#### Section 2.17 Defaulting Lenders.

(a) Notwithstanding anything to the contrary contained in this Agreement, if any Lender becomes a Defaulting Lender, then, until such time as that Lender is no longer a Defaulting Lender, to the extent permitted by applicable Law:

(i) Such Defaulting Lender's right to approve or disapprove any amendment, waiver or consent with respect to this Agreement shall be restricted as set forth in Section 10.01.

(ii) Any payment of principal, interest, fees or other amounts received by the Administrative Agent for the account of such Defaulting Lender (whether voluntary or mandatory, at maturity, pursuant to Article VIII or otherwise, and including any amounts made available to the Administrative Agent by such Defaulting Lender pursuant to Section 10.09), shall be applied at such time or times as may be determined by the Administrative Agent as follows: first, to the payment of any amounts owing by such Defaulting Lender to the Administrative Agent hereunder; second, to the payment on a pro rata basis of any amounts owing by such Defaulting Lender to the L/C Issuers hereunder; third, to be held as Cash Collateral for the L/C Issuers' Fronting Exposures with respect to such Defaulting Lender; fourth, as the Borrowers may request (so long as no Default or Event of Default shall have occurred and is continuing), to the funding of any Loan in respect of which such Defaulting Lender has failed to fund its portion thereof as required by this Agreement, as determined by the Administrative Agent; fifth, if so determined by the Administrative Agent and the Borrowers, to be held in a non-interest bearing deposit account and released pro rata in order to (x) satisfy potential future obligations of such Defaulting Lender to fund Loans under this Agreement and (y) cash collateralize the L/C Issuers' future Fronting Exposure with respect to such Defaulting Lender with respect to future Letters of Credit issued under this Agreement; sixth, to the payment of any amounts owing to the Lenders or any L/C Issuer as a result of any non-appealable judgment of a court of competent jurisdiction obtained by any Lender or any L/C Issuer against such Defaulting Lender as a result of such Defaulting Lender's breach of its obligations under this Agreement; seventh, so long as no Default or Event of Default pursuant to Sections 8.01(a), (f) or (g) shall have occurred and is continuing, to the payment of any amounts owing to the Borrowers as a result of any non-appealable judgment of a court of competent jurisdiction obtained by the Borrowers against such Defaulting Lender as a result of such Defaulting Lender's breach of its obligations under this Agreement; and eighth, to such Defaulting Lender or as otherwise directed by a court of competent jurisdiction; provided that if (x) such payment is a payment of the principal amount of any Loans or L/C Borrowings in respect of which such



Defaulting Lender has not fully funded its appropriate share and (y) such Loans or L/C Borrowings were made at a time when the conditions set forth in Section 4.02 were satisfied or waived, such payment shall be applied solely to pay the Loans of, and L/C Borrowings owed to, all Non-Defaulting Lenders on a pro rata basis prior to being applied to the payment of any Loans of, or L/C Borrowings owed to, such Defaulting Lender until such time as all Loans and funded and unfunded participations in the LC Exposure of the L/C Issuers are held by the applicable Lenders pro rata in accordance with the applicable Commitments without giving effect to clause (iv) below. Any payments, prepayments or other amounts paid or payable to a Defaulting Lender that are applied (or held) to pay amounts owed by a Defaulting Lender or to post Cash Collateral pursuant to this Section 2.17(a)(ii) shall be deemed paid to and redirected by such Defaulting Lender, and each Lender and L/C Issuer irrevocably consents hereto.

(iii) Such Defaulting Lender (x) shall not be entitled to receive any commitment fee pursuant to Sections 2.09(a) for any period during which that Lender is a Defaulting Lender (and the Borrowers shall not be required to pay any such fee that otherwise would have been required to have been paid to that Defaulting Lender) and (y) shall be limited in its right to receive Letter of Credit fees as provided in Section 2.03(h).

(iv) During any period in which there is a Defaulting Lender, for purposes of computing the amount of the obligation of each Non-Defaulting Lender to acquire, refinance or fund participations in Letters of Credit pursuant to Section 2.03, the Pro Rata Share of each Non-Defaulting Lender under a Revolving Tranche shall be determined without giving effect to the Commitment under such Revolving Tranche of that Defaulting Lender; provided that the aggregate obligation of each Non-Defaulting Lender under a Revolving Tranche to acquire, refinance or fund participations in Letters of Credit issued under such Revolving Tranche shall not exceed the positive difference, if any, of (1) the Commitment under such Revolving Tranche of such Non-Defaulting Lender *minus* (2) the aggregate Outstanding Amount of the Loans under such Revolving Tranche of such Non-Defaulting Lender.

(b) If the Borrowers, the Administrative Agent and each L/C Issuer agree in writing in their sole discretion that a Defaulting Lender should no longer be deemed to be a Defaulting Lender, the Administrative Agent will so notify the parties hereto, whereupon as of the effective date specified in such notice and subject to any conditions set forth therein (which may include arrangements with respect to any Cash Collateral), that Lender will, to the extent applicable, purchase at par that portion of outstanding Loans of the other Lenders or take such other actions as the Administrative Agent may reasonably determine to be necessary to cause the Loans and funded and unfunded participations in Letters of Credit to be held on a pro rata basis by the Lenders in accordance with their ratable shares (without giving effect to the application of Section 2.17(a)(iv)) in respect of that Lender, whereupon that Lender will cease to be a Defaulting Lender; provided that no adjustments will be made retroactively with respect to fees accrued or payments made by or on behalf of the Borrowers while such Lender was a Defaulting Lender; and provided, further, that except to the extent otherwise expressly agreed by the affected parties, no change hereunder from Defaulting Lender to Lender will constitute a waiver or release of any claim of any party hereunder arising from that Lender having been a Defaulting Lender.

#### Section 2.18 Specified Refinancing Debt.

(a) The Borrowers (or any Borrower) may, from time to time after the Closing Date, add one or more new term loan facilities and new revolving credit facilities to the Facilities ("Specified Refinancing Debt"; and the commitments in respect of such new term facilities, the "Specified Refinancing Term Commitment" and the commitments in respect of such new revolving credit facilities, the "Specified Refinancing Revolving Credit Commitment") pursuant to procedures reasonably specified by any Person

appointed by the Borrowers, as agent under such Specified Refinancing Debt (such Person (who may be the Administrative Agent, if it so agrees), the “Specified Refinancing Agent”) and reasonably acceptable to the Borrowers, to refinance (including by extending the maturity) (x) all or any portion of any Term Loan Tranches then outstanding under this Agreement, (y) all or any portion of any Revolving Tranches then in effect under this Agreement or (z) all or any portion of any Revolving Credit Commitment Increase, Term Commitment Increase, New Term Facility or New Revolving Facility incurred under Section 2.14, in each case pursuant to a Refinancing Amendment; provided that such Specified Refinancing Debt: (i) will rank pari passu in right of payment as the other Loans and Commitments hereunder; (ii) will not have obligors other than the Loan Parties or entities who shall have become Loan Parties concurrently with the incurrence of such Specified Refinancing Debt (or such other arrangements satisfactory to the Administrative Agent) (it being understood that the roles of such obligors as Borrowers or guarantors with respect to such obligations may be interchanged); (iii) will be (x) unsecured or (y) secured by the Collateral that secured the Tranche being refinanced on a first lien “equal and ratable” basis with the Liens securing the Obligations or on a “junior” basis to the Liens securing the Obligations (in each case pursuant to the Applicable Intercreditor Arrangements); (iv) subject to clause (viii) below, will have such pricing and optional prepayment terms as may be agreed by the Borrowers and the applicable Lenders thereof; (v) (x) to the extent constituting revolving credit facilities, will not have a maturity date (or have mandatory commitment reductions or amortization) that is prior to the scheduled Maturity Date of the Tranche being refinanced and (y) to the extent constituting term loan facilities, will have a maturity date that is not prior to the date that is the scheduled Maturity Date of, and will have a Weighted Average Life to Maturity that is not shorter than the remaining Weighted Average Life to Maturity of, the Tranche being refinanced; provided that Extendable Bridge Loans/Interim Debt and Specified Refinancing Term Loans in an amount not in excess of the Inside Maturity Basket at the time of Incurrence may have a maturity date earlier than the Latest Maturity Date of all then outstanding Term Loans and, with respect to Extendable Bridge Loans/Interim Debt and Specified Refinancing Term Loans in an amount not in excess of the Inside Maturity Basket at the time of Incurrence, the Weighted Average Life to Maturity thereof may be shorter than the then longest remaining Weighted Average Life to Maturity of any then outstanding Term Loans; (vi) each Revolving Credit Borrowing (including any deemed Revolving Credit Borrowings made pursuant to Section 2.03) and participations in Letters of Credit pursuant to Section 2.03 shall be allocated pro rata among the Revolving Tranches; (vii) any Specified Refinancing Term Loans shall share ratably in any mandatory prepayments of Term Loans pursuant to Section 2.05 (other than Section 2.05(b)(iii)) (or otherwise provide for more favorable prepayment treatment for the then outstanding Term Loan Tranches than the Specified Refinancing Term Loans); (viii) all prepayments and repayments with respect to Revolving Tranches shall be allocated pro rata among the Revolving Tranches; (ix) subject to clauses (iv) and (v) above, will have terms and conditions (other than pricing (including, for the avoidance of doubt, any “most favored nation” pricing provision), interest rate margins, rate floors, discounts, fees, premiums, prepayment premiums and redemption provisions and optional prepayment and optional redemption terms) that are, taken as a whole, not materially more favorable to the creditors providing such Specified Refinancing Debt than those applicable to the applicable Tranche being refinanced (taken as a whole) (as reasonably determined by the Borrower Representative in good faith) unless such provisions shall be customary for similar debt securities or loans in light of then-prevailing market terms and conditions (taken as a whole) at the time of incurrence (as reasonably determined by the Borrower Representative in good faith) (it being understood that no (A) Specified Refinancing Debt in the form of term loans shall include any financial maintenance covenants, but that customary cross-acceleration provisions may be included, and (B) any negative covenants with respect to indebtedness, investments, liens or restricted payments shall be incurrence-based) (provided that, at the Parent Borrower’s option, delivery of a certificate of a Responsible Officer of the Parent Borrower to the Administrative Agent in good faith at least three (3) Business Days (or such shorter period as may be agreed by the Administrative Agent) prior to the incurrence of such Specified Refinancing Debt, together with a reasonably detailed description of the material terms and conditions of such Specified Refinancing Debt or drafts of the documentation relating thereto, stating that the Parent Borrower has determined in good faith that such terms and conditions satisfy the requirement set forth in this clause (a), shall be

conclusive evidence that such terms and conditions satisfy such requirement unless the Administrative Agent provides notice to the Parent Borrower of its objection during such three (3) Business Day period (including a reasonable description of the basis upon which it objects)); and (ix) the Net Cash Proceeds of such Specified Refinancing Debt shall be applied, substantially concurrently with the incurrence thereof, to the pro rata prepayment of outstanding Loans being so refinanced (and, in the case of Revolving Credit Loans, a corresponding amount of Revolving Credit Commitments shall be permanently reduced), in each case pursuant to Sections 2.05 and 2.06, as applicable, and the payment of fees, expenses and premiums, if any, payable in connection therewith; provided, however, that such Specified Refinancing Debt (x) may provide for any additional or different financial or other covenants or other provisions that (1) are agreed among the Borrowers and the creditors thereof and applicable only during periods after the then Latest Maturity Date in effect or (2) subject to subclause (A) above, are incorporated into this Agreement (or any other applicable Loan Document) for the benefit of all existing Lenders (to the extent applicable to such Lender) by an amendment to this Agreement (which amendment shall require only the consent of the Borrowers and the Administrative Agent without further Lender voting requirements) and (y) shall not have a principal or commitment amount (or accreted value) greater than the Loans being refinanced (*plus* an amount equal to accrued interest, fees, discounts, premiums and expenses). Any Lender approached to provide all or a portion of any Specified Refinancing Debt may elect or decline, in its sole discretion, to provide such Specified Refinancing Debt. To achieve the full amount of a requested issuance of Specified Refinancing Debt, and subject to the approval of the Administrative Agent and each L/C Issuer in the case of Specified Refinancing Revolving Credit Commitments, the Borrowers may also invite additional Eligible Assignees to become Lenders in respect of such Specified Refinancing Debt pursuant to a joinder agreement to this Agreement in form and substance reasonably satisfactory to the Specified Refinancing Agent. For the avoidance of doubt, any allocations of Specified Refinancing Debt shall be made at the Borrowers' sole discretion, and the Borrowers will not be obligated to allocate any Specified Refinancing Debt to any Lender providing such Specified Refinancing Debt.

(b) The effectiveness of any Refinancing Amendment shall be subject to conditions as are mutually agreed with the participating Lenders providing such Specified Refinancing Debt and to the extent reasonably requested by the Administrative Agent, receipt by the Administrative Agent of legal opinions, board resolutions, officers' certificates and/or reaffirmation agreements with respect to the Borrowers and the Guarantors, including any supplements or amendments to the Collateral Documents providing for such Specified Refinancing Debt to be secured thereby, consistent with those delivered on the Closing Date under Section 4.01 or delivered from time to time pursuant to Section 6.12 and/or Section 6.16 (other than changes to such legal opinions resulting from a change in Law, change in fact or change to counsel's form of opinion). The Lenders hereby authorize the Administrative Agent and the Specified Refinancing Agent to enter into amendments to this Agreement and the other Loan Documents with the Borrowers as may be necessary in order to establish new Tranches of Specified Refinancing Debt and to make such technical amendments as may be necessary or appropriate in the reasonable opinion of the Administrative Agent and the Specified Refinancing Agent and the Borrowers in connection with the establishment of such new Tranches, in each case on terms consistent with and/or to effect the provisions of this Section 2.18.

(c) Each class of Specified Refinancing Debt incurred under this Section 2.18 shall be in an aggregate principal amount that is (x) not less \$1,000,000 and (y) an integral multiple of \$1,000,000 in excess thereof. Any Refinancing Amendment may provide for the issuance of Letters of Credit for the account of the Borrowers in respect of a Revolving Tranche pursuant to any revolving credit facility established thereby, in each case on terms substantially equivalent to the terms applicable to Letters of Credit under the Revolving Credit Commitments.

(d) The Specified Refinancing Agent shall promptly notify each Lender as to the effectiveness of each Refinancing Amendment. Each of the parties hereto hereby agrees that, upon the effectiveness of any Refinancing Amendment, this Agreement shall be deemed amended to the extent (but only to the extent) necessary to reflect the existence and terms of the Specified Refinancing Debt incurred pursuant thereto (including the addition of such Specified Refinancing Debt as separate “Facilities” hereunder and treated in a manner consistent with the Facilities being refinanced, including for purposes of prepayments and voting). Any Refinancing Amendment may, without the consent of any Person other than the Borrowers, the Administrative Agent, the Specified Refinancing Agent and the Lenders providing such Specified Refinancing Debt, effect such amendments to this Agreement and the other Loan Documents as may be necessary or appropriate, in the reasonable opinion of the Administrative Agent, the Specified Refinancing Agent and the Borrowers, to effect the provisions of or consistent with this Section 2.18. In addition, if so provided in the relevant Refinancing Amendment and with the consent of each L/C Issuer, participations in Letters of Credit expiring on or after the scheduled Maturity Date in respect of a Revolving Tranche shall be reallocated from Lenders holding Revolving Credit Commitments to Lenders holding extended revolving commitments in accordance with the terms of such Refinancing Amendment; provided, however, that such participation interests shall, upon receipt thereof by the relevant Lenders holding extended revolving commitments, be deemed to be participation interests in respect of such extended revolving commitments and the terms of such participation interests (including the commission applicable thereto) shall be adjusted accordingly. If the Specified Refinancing Agent is not the Administrative Agent, the actions authorized to be taken by the Specified Refinancing Agent herein shall be done in consultation with the Administrative Agent and, with respect to the preparation of any documentation necessary or appropriate to carry out the provisions of this Section 2.18 (including amendments to this Agreement and the other Loan Documents), any comments to such documentation reasonably requested by the Administrative Agent with respect to administrative matters shall be reflected therein.

(e) To the extent any Guarantee or security granted prior to the date of incurrence under this Section 2.18 to support the Obligations in any jurisdiction requires application, registration, filing or equivalent perfection requirements to be taken in such jurisdiction for any Specified Refinancing Debt which the applicable Borrower and the lenders under such facility desire to benefit on a pari passu basis from such Guarantees and/or such security are not obtained prior to such incurrence, such inability to complete such application, registration, filing or equivalent perfection requirements shall not be deemed to adversely impact the pari passu nature of such Specified Refinancing Debt hereunder and the relevant provisions of this Agreement (including Section 2.03 and 8.04) shall be interpreted as if such Specified Refinancing Debt benefit from such Guarantee or security.

#### Section 2.19 Permitted Debt Exchanges.

(a) Notwithstanding anything to the contrary contained in this Agreement, pursuant to one or more offers (each, a “Permitted Debt Exchange Offer”) made from time to time by the Borrowers to Lenders of a Term Loan Tranche on a pro rata basis, the Borrowers may from time to time following the Closing Date consummate one or more exchanges of Term Loans for Permitted Debt Exchange Notes (each such exchange a “Permitted Debt Exchange”) with any Lender (other than any Lender that, if requested by Parent Borrower, is unable to certify that it is either a “qualified institutional buyer” (as defined in Rule 144A under the Securities Act) or an institutional “accredited investor” (as defined in Rule 501 under the Securities Act)), so long as the following conditions are satisfied: (i) no Event of Default shall have occurred and be continuing at the time the final offering document in respect of a Permitted Debt Exchange Offer is delivered to the relevant Lenders, (ii) the aggregate principal amount (calculated on the face amount thereof) of Term Loans exchanged shall equal no more than the aggregate principal amount (calculated on the face amount thereof) of Permitted Debt Exchange Notes issued in exchange for such Term Loans; provided that the aggregate principal amount of the Permitted Debt Exchange Notes may include accrued interest and premium (if any) under the Term Loans exchanged and underwriting discounts, fees, commissions and Refinancing Expenses in connection with the issuance of such Permitted Debt Exchange Notes, (iii) the aggregate principal amount (calculated on the face amount thereof) of all Term Loans exchanged by the Borrowers pursuant to any Permitted Debt Exchange shall automatically be cancelled and retired by the

Borrowers on the date of the settlement thereof (and, if requested by the Administrative Agent, any applicable exchanging Lender shall execute and deliver to the Administrative Agent an Assignment and Assumption, or such other form as may be reasonably requested by the Administrative Agent, in respect thereof pursuant to which the respective Lender assigns its interest in the Term Loans being exchanged pursuant to the Permitted Debt Exchange to the Borrowers for immediate cancellation), (iv) if the aggregate principal amount of all Term Loans (calculated on the face amount thereof) tendered by Lenders in respect of the relevant Permitted Debt Exchange Offer (with no Lender being permitted to tender a principal amount of Term Loans which exceeds the principal amount thereof actually held by it) shall exceed the maximum aggregate principal amount of such Term Loans offered to be exchanged by the Borrowers pursuant to such Permitted Debt Exchange Offer, then the Borrowers shall exchange Term Loans subject to such Permitted Debt Exchange Offer tendered by such Lenders ratably up to such maximum amount based on the respective principal amounts so tendered, (v) all documentation in respect of such Permitted Debt Exchange shall be consistent with the foregoing, and all written communications generally directed to the Lenders in connection therewith shall be in form and substance consistent with the foregoing and made in consultation with the Borrowers and the Exchange Agent and (vi) any applicable Minimum Tender Condition shall be satisfied.

(b) With respect to all Permitted Debt Exchanges effected by the Borrowers pursuant to this Section 2.19, (i) such Permitted Debt Exchanges (and the cancellation of the exchanged Term Loans in connection therewith) shall not constitute voluntary or mandatory payments or prepayments for purposes of Section 2.05(a) or (b), and (ii) such Permitted Debt Exchange Offer shall be made for not less than \$1,000,000 in aggregate principal amount of Term Loans; provided that subject to the foregoing clause (ii), the Borrowers may at its election specify as a condition (a “Minimum Tender Condition”) to consummating any such Permitted Debt Exchange that a minimum amount (to be determined and specified in the relevant Permitted Debt Exchange Offer in the Borrowers’ discretion) of Term Loans of any or all applicable Classes be tendered.

(c) In connection with each Permitted Debt Exchange, the Borrowers and the Exchange Agent shall mutually agree to such procedures as may be necessary or advisable to accomplish the purposes of this Section 2.19 and without conflict with Section 2.19(d); provided that the terms of any Permitted Debt Exchange Offer shall provide that the date by which the relevant Lenders are required to indicate their election to participate in such Permitted Debt Exchange shall be not less than a reasonable period (in the discretion of the Borrowers and the Exchange Agent) of time following the date on which the Permitted Debt Exchange Offer is made.

(d) The Borrowers shall be responsible for compliance with, and hereby agrees to comply with, all applicable securities and other laws and regulations in connection with each Permitted Debt Exchange, it being understood and agreed that (x) none of the Exchange Agent, the Administrative Agent nor any Lender assumes any responsibility in connection with the Borrowers’ compliance with such laws and regulations in connection with any Permitted Debt Exchange (other than the Borrowers’ reliance on any certificate delivered pursuant to Section 2.19(a) above for which the such Lender shall bear sole responsibility) and (y) each Lender shall be solely responsible for its compliance with any applicable “insider trading” laws and regulations to which such Lender may be subject under the Securities Exchange Act of 1934, as amended, and/or other applicable securities laws and regulations.

(e) If the Exchange Agent is not the Administrative Agent, the actions authorized to be taken by the Exchange Agent herein shall be done in consultation with the Administrative Agent and, with respect to the preparation of any documentation necessary or appropriate to carry out the provisions of this Section 2.19, any comments to such documentation reasonably requested by the Administrative Agent with respect to administrative matters shall be reflected therein.

Section 2.20 [Reserved].

Section 2.21 [Reserved].

Section 2.22 Extension of Term Loans and Revolving Credit Commitments.

(a) The Borrowers may at any time and from time to time request that all or a portion of the (i) Term Loans of one or more Tranches existing at the time of such request (each, an “Existing Term Tranche”, and the Term Loans of such Tranche, the “Existing Term Loans”) or (ii) Revolving Credit Commitments of one or more Tranches existing at the time of such request (each, an “Existing Revolving Tranche” and together with the Existing Term Tranches, each an “Existing Tranche”, and the Revolving Credit Commitments of such Existing Revolving Tranche, the “Existing Revolving Loans”, and together with the Existing Term Loans, the “Existing Loans”), in each case, be converted to extend the scheduled maturity date(s) of any payment of principal with respect to all or a portion of any principal amount of any Existing Tranche (any such Existing Tranche which has been so extended, an “Extended Term Tranche” or “Extended Revolving Tranche”, as applicable, and each an “Extended Tranche”, and the Term Loans or Revolving Credit Commitments, as applicable, of such Extended Tranches, the “Extended Term Loans” or “Extended Revolving Commitments”, as applicable, and collectively, the “Extended Loans”) and to provide for other terms consistent with this Section 2.22; provided that (1) any such request shall be made by the Parent Borrower to each Lender under the applicable Tranche on a pro rata basis (based on the aggregate outstanding principal amount of the Term Loans or on the aggregate Revolving Credit Commitments) with respect to such requested Lenders and (2) any applicable Minimum Extension Condition shall be satisfied unless waived by the Parent Borrower in its sole discretion. In order to establish any Extended Tranche, the Parent Borrower shall provide a notice to the Administrative Agent (in such capacity, the “Extended Loans Agent”) (who shall provide a copy of such notice to each of the requested Lenders of the applicable Existing Tranche) (an “Extension Request”) setting forth the proposed terms of the Extended Tranche to be established, which terms shall be substantially similar to those applicable to the Existing Tranche from which they are to be extended (the “Specified Existing Tranche”), except (x) all or any of the final maturity dates of such Extended Tranches shall be delayed to later dates than the final maturity dates of the Specified Existing Tranche, (y) (A) the interest margins with respect to the Extended Tranche may be higher or lower than the interest margins for the Specified Existing Tranche and/or (B) additional fees may be payable to the Lenders providing such Extended Tranche in addition to or in lieu of any increased margins contemplated by the preceding clause (A) and (z) in the case of an Extended Term Tranche, so long as the Weighted Average Life to Maturity of such Extended Tranche would be no shorter than the remaining Weighted Average Life to Maturity of the Specified Existing Tranche, amortization rates with respect to the Extended Term Tranche may be higher or lower than the amortization rates for the Specified Existing Tranche, in each case to the extent provided in the applicable Extension Amendment; provided that, notwithstanding anything to the contrary in this Section 2.22 or otherwise, assignments and participations of Extended Tranches shall be governed by the same or, at the Borrowers’ discretion, more restrictive assignment and participation provisions applicable to Initial Term Loans or Revolving Credit Commitments, as applicable, set forth in Section 10.07. No requested Lender shall have any obligation to agree to have any of its Existing Loans converted into an Extended Tranche pursuant to any Extension Request. Any Extended Tranche shall constitute a separate Tranche of Loans from the Specified Existing Tranches and from any other Existing Tranches (together with any other Extended Tranches so established on such date). On the Extension Date applicable to any applicable Revolving Tranche under the Revolving Credit Facility, the Borrowers shall prepay the Revolving Credit Loans or L/C Advances (to the extent participated to Revolving Credit Lenders) outstanding on such Extension Date applicable to the relevant Revolving Tranche (and pay any additional amounts required pursuant to Section 3.06) to the extent necessary to keep the outstanding Revolving Credit Loans or L/C Advances (to the extent participated to Revolving Credit Lenders), as the case may be, applicable to the non-extending Revolving Credit Lenders under such Revolving Tranche in accordance with any revised Pro Rata Share of a Revolving Credit Lender in respect of the extended Revolving Credit Facility arising from any non-ratable Extension to the Revolving Credit Commitments under this Section 2.22.

(b) The Parent Borrower shall provide the applicable Extension Request at least ten (10) Business Days (or such shorter period as the Extended Loans Agent may agree in its sole discretion) prior to the date on which Lenders under the applicable Existing Tranche or Existing Tranches are requested to respond. Any requested Lender (an “Extending Lender”) wishing to have all or a portion of its Specified Existing Tranche converted into an Extended Tranche shall notify the Extended Loans Agent (each, an “Extension Election”) on or prior to the date specified in such Extension Request of the amount of its Specified Existing Tranche that it has elected to convert into an Extended Tranche. In the event that the aggregate amount of the Specified Existing Tranche subject to Extension Elections exceeds the amount of Extended Tranches requested pursuant to the Extension Request, the Specified Existing Tranches subject to Extension Elections shall be converted to Extended Tranches on a pro rata basis based on the amount of Specified Existing Tranches included in each such Extension Election. In connection with any extension of Loans pursuant to this Section 2.22 (each, an “Extension”), the Borrowers, the Administrative Agent and Extended Loans Agent shall agree to such procedures regarding timing, rounding, lender revocation and other administrative adjustments to ensure reasonable administrative management of the credit facilities hereunder after such Extension, in each case acting reasonably to accomplish the purposes of this Section 2.22. The Borrowers may amend, revoke or replace an Extension Request pursuant to procedures reasonably acceptable to the Administrative Agent and the Extended Loans Agent at any time prior to the date (the “Extension Request Deadline”) on which Lenders under the applicable Existing Term Tranche or Existing Term Tranches are requested to respond to the Extension Request.

(c) Extended Tranches shall be established pursuant to an amendment (an “Extension Amendment”) to this Agreement (which may include amendments to provisions related to maturity, interest margins or fees referenced in clauses (x) and (y) of Section 2.22(a)), or, in the case of Extended Term Tranches, amortization rates referenced in clause (z) of Section 2.22(a), and which, in each case, except to the extent expressly contemplated by the last sentence of this Section 2.22(c) and notwithstanding anything to the contrary set forth in Section 10.01, shall not require the consent of any Lender other than the Extending Lenders with respect to the Extended Tranches established thereby) executed by the Loan Parties, the Administrative Agent, the Extended Loans Agent, and the Extending Lenders. In connection with an Extension Amendment, to the extent reasonably requested by the Administrative Agent and expressly set forth in such Extension Amendment, the Administrative Agent shall have received legal opinions, resolutions, officers’ certificates, reaffirmation agreements or amendment agreements to, and/or confirmations of, the Collateral Documents, as applicable, in each case consistent with those delivered on the Closing Date under Section 4.01 or delivered from time to time pursuant to Section 6.12 and/or Section 6.16 with respect to the Borrowers and each material Subsidiary Guarantor that is organized in a jurisdiction for which counsel to the Administrative Agent advises that such deliveries are reasonably necessary to preserve the Collateral in such jurisdiction (other than changes to such legal opinions resulting from a change in Law, change in fact or change to counsel’s form of opinion). Subject to the requirements of this Section 2.22 and without limiting the generality or applicability of Section 10.01 to any Section 2.22 Additional Amendments, any Extension Amendment may provide for additional terms and/or additional amendments other than those referred to or contemplated above (any such additional amendment, a “Section 2.22 Additional Amendment”) to this Agreement and the other Loan Documents; provided that such Section 2.22 Additional Amendments do not become effective prior to the time that such Section 2.22 Additional Amendments have been consented to (including pursuant to consents applicable to holders of any Extended Tranches provided for in any Extension Amendment) by such of the Lenders, Loan Parties and other parties (if any) as may be required in order for such Section 2.22 Additional Amendments to become effective in accordance with Section 10.01; provided, further, that no Extension Amendment may provide for (i) any Extended Tranche to be secured by any Collateral or other assets of any Loan Party that does not also secure the Existing Tranches or be guaranteed by any Person other than the Guarantors and (ii) so long as any

Existing Term Tranches are outstanding, any mandatory prepayment provisions that do not also apply to the Existing Term Tranches (other than Existing Term Tranches secured on a junior basis by the Collateral or ranking junior in right of payment, which shall be subject to junior prepayment provisions) on a pro rata or otherwise more favorable basis. Notwithstanding anything to the contrary in Section 10.01, any such Extension Amendment may, without the consent of any other Lenders, effect such amendments to any Loan Documents as may be necessary or appropriate, in the reasonable judgment of the Parent Borrower, the Administrative Agent and the Extended Loans Agent, to effect the provisions of this Section 2.22; provided that the foregoing shall not constitute a consent on behalf of any Lender to the terms of any Section 2.22 Additional Amendment. The Lenders hereby authorize the Administrative Agent and the Extended Loans Agent to enter into amendments to this Agreement and the other Loan Documents with the Borrowers as may be necessary in order to establish any Extended Loans and to make such technical amendments as may be necessary or appropriate in the reasonable opinion of the Administrative Agent, the Extended Loans Agent and the Borrowers in connection with the establishment of such Extended Loans, in each case on terms consistent with and/or to effect the provisions of this Section 2.22.

(d) Notwithstanding anything to the contrary contained in this Agreement, on any date on which any Existing Tranche is converted to extend the related scheduled maturity date(s) in accordance with clause (a) above (an “Extension Date”), in the case of the Specified Existing Tranche of each Extending Lender, the aggregate principal amount of such Specified Existing Tranche shall be deemed reduced by an amount equal to the aggregate principal amount of Extended Tranche so converted by such Lender on such date, and such Extended Tranches shall be established as a separate Tranche from the Specified Existing Tranche and from any other Existing Tranches (together with any other Extended Tranches so established on such date).

(e) If, in connection with any proposed Extension Amendment, any requested Lender declines to consent to the applicable extension on the terms and by the deadline set forth in the applicable Extension Request (each such other Lender, a “Non-Extending Lender”), then the Borrowers may, on notice to the Extended Loans Agent and the Non-Extending Lender, replace such Non-Extending Lender by causing such Lender to (and such Lender shall be obligated to) assign pursuant to Section 10.07 (with the assignment fee and any other costs and expenses to be paid by the Borrowers in such instance) all of its rights and obligations under this Agreement to one or more assignees; provided that neither the Extended Loans Agent nor any Lender shall have any obligation to the Borrowers to find a replacement Lender; provided, further, that the applicable assignee shall have agreed to provide Extended Loans on the terms set forth in such Extension Amendment; provided, further, that all obligations of the Borrowers owing to the Non-Extending Lender relating to the Existing Loans so assigned shall be paid in full by the assignee Lender to such Non-Extending Lender concurrently with such Assignment and Assumption. In connection with any such replacement under this Section 2.22, if the Non-Extending Lender does not execute and deliver to the Extended Loans Agent a duly completed Assignment and Assumption by the later of (i) the date on which the replacement Lender executes and delivers such Assignment and Assumption and (ii) the date as of which all obligations of the Borrowers owing to the Non-Extending Lender relating to the Existing Loans so assigned shall be paid in full by the assignee Lender to such Non-Extending Lender, then such Non-Extending Lender shall be deemed to have executed and delivered such Assignment and Assumption as of such date and the Borrowers shall be entitled (but not obligated) to execute and deliver such Assignment and Assumption on behalf of such Non-Extending Lender.

(f) Following any Extension Date, with the written consent of the Parent Borrower, any Non-Extending Lender may elect to have all or a portion of its Existing Loans deemed to be an Extended Loan under the applicable Extended Tranche on any date (each date a “Designation Date”) prior to the maturity date of such Extended Tranche; provided that such Lender shall have provided written notice to the Parent Borrower, the Administrative Agent and the Extended Loans Agent at least ten (10) Business Days prior to such Designation Date (or such shorter period as the Administrative Agent may agree in its reasonable discretion). Following a Designation Date, the Existing Loans held by such Lender so elected to be extended will be deemed to be Extended Loans of the applicable Extended Tranche, and any Existing Loans held by such Lender not elected to be extended, if any, shall continue to be “Existing Loans” of the applicable Tranche.



(g) With respect to all Extensions consummated by the Borrowers pursuant to this Section 2.22, (i) such Extensions shall not constitute optional or mandatory payments or prepayments for purposes of Sections 2.05(a) and (b) and (ii) no Extension Request is required to be in any minimum amount or any minimum increment; provided that the Parent Borrower may at its election specify as a condition (a “Minimum Extension Condition”) to consummating any such Extension that a minimum amount (to be determined and specified in the relevant Extension Request in the Parent Borrower’s sole discretion and may be waived by the Parent Borrower) of Existing Loans of any or all applicable Tranches be extended. The Administrative Agent and the Lenders hereby consent to the transactions contemplated by this Section 2.22 (including, for the avoidance of doubt, payment of any interest, fees or premium in respect of any Extended Loans on such terms as may be set forth in the relevant Extension Request) and hereby waive the requirements of any provision of this Agreement (including Sections 2.05(a) and (b) and 2.07) or any other Loan Document that may otherwise prohibit any such Extension or any other transaction contemplated by this Section 2.22.

### ARTICLE III

#### **TAXES, INABILITY TO DETERMINE RATES, INCREASED COSTS PROTECTION AND ILLEGALITY**

##### Section 3.01 Taxes.

(a) Any and all payments by or on account of any obligation of any of the Borrowers or any other Loan Party or any Grantor hereunder or under any other Loan Document shall be made without deduction or withholding for any Taxes, except as required by applicable Law. If any applicable Law (as determined in the good faith discretion of an applicable withholding agent) requires the deduction or withholding of any Tax from or in respect of any such payment, then the Borrowers, the other applicable Loan Party or Grantor, Administrative Agent or other applicable withholding agent shall be entitled to make such deduction or withholding and shall timely pay the full amount deducted or withheld to the relevant Governmental Authority in accordance with applicable Law and, if such Tax is an Indemnified Tax, the sum payable by the applicable Borrower, or other applicable Loan Party or Grantor shall be increased as necessary so that after all such deductions or withholdings have been made (including such deductions and withholdings applicable to additional sums payable under this Section 3.01) the applicable Recipient receives an amount equal to the sum it would have received had no such deduction or withholding been made.

(b) In addition but without duplication, the Loan Parties and the Grantors shall timely pay to the relevant Governmental Authority in accordance with applicable Law, or at the option of the Administrative Agent timely reimburse it for the payment of, any Other Taxes.

(c) The Loan Parties and the Grantors shall jointly and severally indemnify each Recipient, within thirty (30) days after written demand therefor, for the full amount of any Indemnified Taxes (including Indemnified Taxes imposed or asserted on or attributable to amounts payable under this Section 3.01) payable or paid by such Recipient or required to be withheld or deducted from a payment to such Recipient and any reasonable out-of-pocket expenses arising therefrom or with respect thereto, whether or not such Indemnified Taxes were correctly or legally imposed or asserted by the relevant Governmental Authority. Any Recipient claiming indemnity pursuant to this clause (c) shall notify the Loan Parties and the Grantors of the imposition of the relevant Indemnified Taxes as soon as practicable after the Recipient becomes aware of such imposition. A certificate as to the amount of such payment or liability delivered to the Borrowers by a Lender (with a copy to the Administrative Agent), or by the Administrative Agent on its own behalf or on behalf of a Lender, shall be conclusive absent manifest error.

(d) Within thirty (30) days after any payment of Taxes by any Loan Party or any Grantor to a Governmental Authority pursuant to this Section 3.01, such Loan Party and such Grantor shall, upon request of the Administrative Agent or the applicable Lender, deliver to the Administrative Agent the original or a certified copy of a receipt issued by such Governmental Authority evidencing such payment, a copy of the return reporting such payment or other evidence of such payment reasonably satisfactory to the Administrative Agent.

(e) If any party determines, in its sole discretion exercised in good faith, that it has received a refund of any Taxes as to which it has been indemnified pursuant to this Section 3.01 (including by the payment of additional amounts pursuant to this Section 3.01), it shall pay to the indemnifying party an amount equal to such refund (but only to the extent of indemnity payments made and additional amounts paid under this Section 3.01 with respect to the Taxes giving rise to such refund), net of all out-of-pocket expenses (including Taxes) of such indemnified party and without interest (other than any interest paid by the relevant Governmental Authority with respect to such refund). Such indemnifying party, upon the request of such indemnified party, shall promptly repay to such indemnified party the amount paid over pursuant to this clause (e) (plus any penalties, interest or other charges imposed by the relevant Governmental Authority) in the event that such indemnified party is required to repay such refund to such Governmental Authority. Notwithstanding anything to the contrary in this clause (e), in no event will the indemnified party be required to pay any amount to an indemnifying party pursuant to this clause (e) the payment of which would place the indemnified party in a less favorable net after-Tax position than the indemnified party would have been in if the Tax subject to indemnification and giving rise to such refund had not been deducted, withheld or otherwise imposed and the indemnification payments or additional amounts with respect to such Tax had never been paid. This clause (e) shall not be construed to require any indemnified party to make available its Tax returns (or any other information relating to its Taxes that it deems confidential) to the indemnifying party or any other Person.

(f) Each Lender agrees that, upon the occurrence of any event giving rise to the operation of Section 3.01(a) or (c) with respect to such Lender it will, if requested by the Borrowers, use commercially reasonable efforts (subject to such Lender's overall internal policies of general application and legal and regulatory restrictions) to avoid or reduce to the greatest extent possible any indemnification or additional amounts being due under this Section 3.01, including to designate another Lending Office for any Loan or Letter of Credit affected by such event; provided that such efforts are made on terms that, in the reasonable judgment of such Lender, cause such Lender and its Lending Office(s) to suffer no material economic, legal or regulatory disadvantage; and provided further that nothing in this Section 3.01(f) shall affect or postpone any of the Obligations of the Borrowers or the rights of such Lender pursuant to Sections 3.01(a) and (c). The Borrowers hereby agree to pay all reasonable costs and expenses incurred by any Lender as a result of a request by the Borrowers under this Section 3.01(f).

(g)

(i) Any Recipient that is entitled to an exemption from or reduction of withholding Tax with respect to payments made under any Loan Document shall deliver to the applicable Borrowers and the Administrative Agent, at the time or times reasonably requested by the Borrowers or the Administrative Agent, such properly completed and executed documentation reasonably requested by the Borrowers or the Administrative Agent as will permit such payments to be made without withholding or at a reduced rate of withholding. In addition, any Recipient, if reasonably requested by the Borrowers or the Administrative Agent, shall deliver such other

documentation prescribed by applicable Law or reasonably requested by the Borrowers or the Administrative Agent as will enable the Borrowers or the Administrative Agent to determine whether or not such Recipient is subject to backup withholding or information reporting requirements. Notwithstanding anything to the contrary in the preceding two sentences, the completion, execution and submission of such documentation (other than such documentation set forth in Section 3.01(g)(ii)(A), (ii)(B) and (ii)(D) below) shall not be required if in the Recipient's reasonable judgment such completion, execution or submission would subject such Recipient to any material unreimbursed cost or expense or would materially prejudice the legal or commercial position of such Recipient.

(ii) Without limiting the generality of the foregoing,

(A) any Recipient that is a U.S. Tax Person shall deliver to the applicable Borrowers and the Administrative Agent (in such number of copies as shall be requested by the recipient) on or prior to the date on which such Recipient becomes a party to this Agreement (and from time to time thereafter upon the reasonable request of the applicable Borrowers or the Administrative Agent) executed copies of IRS Form W-9 (or any successor form) certifying that such Recipient is exempt from U.S. federal backup withholding;

(B) any Non-U.S. Lender shall deliver to the applicable Borrowers and the Administrative Agent (in such number of copies as shall be requested by the recipient) on or prior to the date on which such Non-U.S. Lender becomes a party to this Agreement (and from time to time thereafter upon the reasonable request of the applicable Borrowers or the Administrative Agent), whichever of the following is applicable:

(1) in the case of a Non-U.S. Lender claiming the benefits of an income tax treaty to which the United States is a party, (i) with respect to payments of interest under any Loan Document, executed copies of IRS Form W-8BEN or IRS Form W-8BEN-E, as applicable (or any successor form) establishing an exemption from, or reduction of, U.S. federal withholding Tax pursuant to the "interest" article of such tax treaty and (ii) with respect to any other applicable payments under any Loan Document, executed copies of IRS Form W-8BEN or W-8BEN-E establishing an exemption from, or reduction of, U.S. federal withholding Tax pursuant to the "business profits" or "other income" article of such treaty;

(2) executed copies of IRS Form W-8ECI (or any successor form);

(3) in the case of a Non-U.S. Lender claiming the benefits of the exemption for portfolio interest under Section 881(c) of the Code, (x) a certificate substantially in the form of Exhibit L-1 to the effect that such Non-U.S. Lender is not a "bank" within the meaning of Section 881(c)(3)(A) of the Code, a "10 percent shareholder" of the Borrowers within the meaning of Section 871(h)(3)(B) of the Code, a "controlled foreign corporation" described in Section 881(c)(3)(C) of the Code and that no payments in connection with any Loan Document are effectively connected with such Lender's conduct of a U.S. trade or business (a "U.S. Tax Compliance Certificate") and (y) executed copies of IRS Form W-8BEN or IRS Form W-8BEN-E, as applicable (or any successor form); or

(4) to the extent a Non-U.S. Lender is not the beneficial owner (e.g., where the Non-U.S. Lender is a partnership or a participating Lender), executed copies of IRS Form W-8IMY, accompanied by IRS Form W-8ECI, IRS Form W-8BEN, IRS Form W-8BEN-E, a certificate substantially in the form of Exhibit I-2 or Exhibit I-3, IRS Form W-9, and/or other certification documents from each beneficial owner, as applicable; provided that if the Non-U.S. Lender is a partnership (and not a participating Lender) and one or more direct or indirect partners of such Non-U.S. Lender are claiming the portfolio interest exemption, such Non-U.S. Lender shall provide a certificate substantially in the form of Exhibit I-4 on behalf of each such direct and indirect partner;

(C) any Non-U.S. Lender shall deliver to the applicable Borrowers or the Administrative Agent (in such number of copies as shall be requested by the recipient) on or prior to the date on which such Non-U.S. Lender becomes a party to this Agreement (and from time to time thereafter upon the reasonable request of the Parent Borrower or the Administrative Agent), executed copies of any other form prescribed by applicable Law as a basis for claiming exemption from or a reduction in U.S. federal withholding Tax, duly completed, together with such supplementary documentation as may be prescribed by applicable Law to permit the Borrowers or the Administrative Agent to determine the withholding or deduction required to be made;

(D) if a payment made to a Recipient under any Loan Document would be subject to Tax imposed by FATCA if such Recipient were to fail to comply with the applicable reporting requirements of FATCA (including those contained in Section 1471(b) or 1472(b) of the Code, as applicable), such Recipient shall deliver to the applicable Borrowers and the Administrative Agent at the time or times prescribed by Law and at such time or times reasonably requested by the applicable Borrowers or the Administrative Agent such documentation prescribed by applicable Law (including as prescribed by Section 1471(b)(3)(C)(i) of the Code) and such additional documentation reasonably requested by the applicable Borrowers or the Administrative Agent as may be necessary for the Borrowers and the Administrative Agent to comply with their obligations under FATCA to determine whether such Recipient has complied with such Recipient's obligations under FATCA and, if necessary, to determine the amount to deduct and withhold from such payment. Solely for purposes of this clause (D), "FATCA" shall include any amendments made to FATCA after the date of this Agreement; and

(E) the Administrative Agent shall deliver to the Borrowers (in such number of copies as shall be requested by the recipient) on or prior to the date on which the Administrative Agent becomes the administrative agent hereunder or under any other Loan Document (and from time to time thereafter upon the reasonable request of the Borrowers) executed copies of either (a) IRS Form W-9 (or any successor form) or (b) a duly executed U.S. branch withholding certificate on IRS Form W-8IMY (or any successor form) evidencing its agreement with the Parent Borrower to be treated as a U.S. Tax Person with respect to amounts received on account of any Lender under such Term Loans and IRS Form W-8ECI (with respect to amounts received on its own account for such Term Loans), with the effect that, in either case, the Borrowers will be entitled to make payments hereunder to the Administrative Agent without withholding or deduction on account of U.S. federal withholding tax.

Each Recipient (other than the Administrative Agent) agrees that if it becomes aware that any documentation it previously delivered expires or becomes obsolete or inaccurate in any respect, it shall promptly update and deliver such form or certification to the applicable Borrowers and the Administrative Agent or promptly notify the applicable Borrowers and the Administrative Agent in writing of its legal ineligibility to do so.

Notwithstanding any other provision of this Section 3.01(g), a Lender shall not be required to deliver any documentation that such Lender is not legally eligible to deliver or cause to be delivered.

(h) Each Lender shall severally indemnify the Administrative Agent, within 30 days after demand therefor, for (i) any Indemnified Taxes attributable to such Lender (but only to the extent that any Loan Party or Grantor has not already indemnified the Administrative Agent for such Indemnified Taxes and without limiting the obligation of the Loan Parties to do so), (ii) any Taxes attributable to such Lender's failure to comply with the provisions of Section 10.07(m) relating to the maintenance of a Participant Register and (iii) any Excluded Taxes attributable to such Lender, in each case, that are payable or paid by the Administrative Agent in connection with any Loan Document, and any reasonable expenses arising therefrom or with respect thereto, whether or not such Taxes were correctly or legally imposed or asserted by the relevant Governmental Authority. A certificate as to the amount of such payment or liability delivered to any Lender by the Administrative Agent shall be conclusive absent manifest error. Each Lender hereby authorizes the Administrative Agent to set off and apply any and all amounts at any time owing to such Lender under any Loan Document or otherwise payable by the Administrative Agent to the Lender from any other source against any amount due to the Administrative Agent under this paragraph (h).

(i) The agreements in this Section 3.01 shall survive the resignation and/or replacement of the Administrative Agent, any assignment of rights by, or the replacement of, a Lender, the termination of the Commitments, the expiration or cancellation of all Letters of Credit and the repayment, satisfaction or discharge of all other Obligations.

(j) For the avoidance of doubt, the term "Lender" shall, for purposes of this Section 3.01, include any L/C Issuer.

Section 3.02 [Reserved].

Section 3.03 Illegality. If any Law has made it unlawful, or that any Governmental Authority has asserted that it is unlawful, for any Lender or its applicable Lending Office to make, maintain or fund Loans whose interest is determined by reference to a Term Benchmark or to determine or charge interest rates based upon a Term Benchmark or any Governmental Authority has imposed material restrictions on the authority of any Lender to purchase or sell, or to take deposits of, Dollars in the applicable interbank market, in each case after the Closing Date, then, on written notice thereof by such Lender to the Borrower Representative through the Administrative Agent, any obligation of such Lender to make or continue Term Benchmark Loans, or to convert Base Rate Loans to Term Benchmark Loans shall be suspended until such Lender notifies the Administrative Agent and the Borrower Representative that the circumstances giving rise to such determination no longer exist. Upon receipt of such notice, the Borrower Representative shall promptly following written demand from such Lender (with a copy to the Administrative Agent), at the Borrower Representative's election, prepay or convert all applicable Term Benchmark Loans of such Lender to Base Rate Loans, either on the last day of the Interest Period therefor, if such Lender may lawfully continue to maintain such Term Benchmark Loans to such day, or promptly, if such Lender may not lawfully continue to maintain such Term Benchmark Loans.

Section 3.04 Inability to Determine Rates.

(a) Subject to clauses (b), (c), (d), (e) and (f) of this Section 3.04, if:

(i) the Administrative Agent determines (which determination shall be conclusive absent manifest error) prior to the commencement of any Interest Period for a Term Benchmark Borrowing, that adequate and reasonable means do not exist for ascertaining the Term SOFR Rate (including because the Relevant Screen Rate is not available or published on a current basis), for the applicable Interest Period; or

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(ii) the Administrative Agent is advised by the Required Lenders that prior to the commencement of any Interest Period for a Term Benchmark Borrowing, the Term SOFR Rate and such Interest Period will not adequately and fairly reflect the cost to such Lenders (or Lender) of making or maintaining their Loans (or its Loan) included in such Borrowing for such Interest Period;

then the Administrative Agent shall give notice thereof to the Borrower Representative and the Lenders by telephone or electronic mail as promptly as practicable thereafter and, until (x) the Administrative Agent notifies the Borrower Representative and the Lenders that the circumstances giving rise to such notice no longer exist with respect to the relevant Benchmark and (y) the Borrower delivers a new Committed Loan Notice in accordance with the terms of Section 2.02, any Committed Loan Notice that requests the conversion of any Borrowing to, or continuation of any Borrowing as, a Term Benchmark Borrowing and any Committed Loan Notice that requests a Term Benchmark Borrowing shall instead be deemed to be a Committed Loan Notice for a Base Rate Borrowing. Furthermore, if any Term Benchmark Loan is outstanding on the date of the Borrower Representative's receipt of the notice from the Administrative Agent referred to in this Section 3.04(a) with respect to the Term SOFR Rate, then until (x) the Administrative Agent notifies the Borrower Representative and the Lenders that the circumstances giving rise to such notice no longer exist with respect to the relevant Benchmark and (y) the Borrower Representative delivers a new Committed Loan Notice in accordance with the terms of Section 2.02, any Term Benchmark Loan shall on the last day of the Interest Period applicable to such Loan, be converted by the Administrative Agent to, and shall constitute a Base Rate Loan.

(b) Notwithstanding anything to the contrary herein or in any other Loan Document (and any Swap Contract shall be deemed not to be a "Loan Document" for purposes of this Section 3.04), if a Benchmark Transition Event and its related Benchmark Replacement Date have occurred prior to the Reference Time in respect of any setting of the then-current Benchmark, then (x) if a Benchmark Replacement is determined in accordance with clause (1) of the definition of "Benchmark Replacement" with respect to Dollars for such Benchmark Replacement Date, such Benchmark Replacement will replace such Benchmark for all purposes hereunder and under any Loan Document in respect of such Benchmark setting and subsequent Benchmark settings without any amendment to, or further action or consent of any other party to, this Agreement or any other Loan Document and (y) if a Benchmark Replacement is determined in accordance with clause (2) of the definition of "Benchmark Replacement" for such Benchmark Replacement Date, such Benchmark Replacement will replace such Benchmark for all purposes hereunder and under any Loan Document in respect of any Benchmark setting at or after 5:00 p.m. (New York City time) on the fifth (5th) Business Day after the date notice of such Benchmark Replacement is provided to the Lenders without any amendment to, or further action or consent of any other party to, this Agreement or any other Loan Document so long as the Administrative Agent has not received, by such time, written notice of objection to such Benchmark Replacement from Lenders comprising the Required Lenders of each affected Class.

(c) Notwithstanding anything to the contrary herein or in any other Loan Document, the Administrative Agent will have the right, in consultation with the Borrower Representative, to make Benchmark Replacement Conforming Changes from time to time and, notwithstanding anything to the contrary herein or in any other Loan Document, any amendments implementing such Benchmark Replacement Conforming Changes will become effective without any further action or consent of any other party to this Agreement or any other Loan Document.

(d) The Administrative Agent will promptly notify the Borrower Representative and the Lenders of (i) any occurrence of a Benchmark Transition Event, (ii) the implementation of any Benchmark Replacement, (iii) the effectiveness of any Benchmark Replacement Conforming Changes, (iv) the removal or reinstatement of any tenor of a Benchmark pursuant to clause (e) below and (v) the commencement or conclusion of any Benchmark Unavailability Period. Any determination, decision or election that may be made by the Administrative Agent or, if applicable, the Borrower Representative or any Lender (or group of Lenders) pursuant to this Section 3.04, including any determination with respect to a tenor, rate or adjustment or of the occurrence or non-occurrence of an event, circumstance or date and any decision to take or refrain from taking any action or any selection, will be conclusive and binding absent manifest error and may be made in its or their sole discretion and without consent from any other party to this Agreement or any other Loan Document, except, in each case, as expressly required pursuant to this Section 3.04.

(e) Notwithstanding anything to the contrary herein or in any other Loan Document, at any time (including in connection with the implementation of a Benchmark Replacement), (i) if the then-current Benchmark is a term rate (including the Term SOFR Rate) and either (A) any tenor for such Benchmark is not displayed on a screen or other information service that publishes such rate from time to time as selected by the Administrative Agent in its reasonable discretion or (B) the regulatory supervisor for the administrator of such Benchmark has provided a public statement or publication of information announcing that any tenor for such Benchmark is or will be no longer representative, then the Administrative Agent may modify the definition of "Interest Period" for any Benchmark settings at or after such time to remove such unavailable or non-representative tenor and (ii) if a tenor that was removed pursuant to clause (i) above either (A) is subsequently displayed on a screen or information service for a Benchmark (including a Benchmark Replacement) or (B) is not, or is no longer, subject to an announcement that it is or will no longer be representative for a Benchmark (including a Benchmark Replacement), then the Administrative Agent may modify the definition of "Interest Period" for all Benchmark settings at or after such time to reinstate such previously removed tenor.

(f) Upon the Borrower Representative's receipt of notice of the commencement of a Benchmark Unavailability Period, the Borrowers may revoke any request for a Term Benchmark Borrowing or, conversion to or continuation of Term Benchmark Loans to be made, converted or continued during any Benchmark Unavailability Period and, failing that, either (x) the Borrowers will be deemed to have converted any request for a Term Benchmark Borrowing into a request for a Borrowing of or conversion to Base Rate Loans or (y) any request relating to a Term Benchmark Borrowing shall be ineffective. During any Benchmark Unavailability Period or at any time that a tenor for the then-current Benchmark is not an Available Tenor, the component of the Base Rate based upon the then-current Benchmark or such tenor for such Benchmark, as applicable, will not be used in any determination of the Base Rate. Furthermore, if any Term Benchmark Loan is outstanding on the date of the Borrower Representative's receipt of notice of the commencement of a Benchmark Unavailability Period with respect to the Term SOFR Rate, then until such time as a Benchmark Replacement is implemented pursuant to this Section 3.04, with respect to any Term Benchmark Loan, on the last day of the Interest Period applicable to such Loan, such Loan shall be converted by the Administrative Agent to, and shall constitute a Base Rate Loan on such day.

#### Section 3.05 Increased Cost and Reduced Return; Capital Adequacy and Liquidity Requirements.

(a) If any Lender reasonably determines that as a result of the introduction of or any change in or in the interpretation of any Law, in each case after the date hereof, or such Lender's compliance therewith, there shall be any material increase in the cost to such Lender of agreeing to make or making, funding or maintaining any Loan the interest on which is determined by reference to a Term Benchmark or (as the case may be) issuing or participating in Letters of Credit, or a material reduction in the amount

received or receivable by such Lender in connection with any of the foregoing (including Taxes on or in respect of its loans, letters of credit, commitments, or other obligations, or its deposits, reserves, other liabilities or capital attributable thereto, but excluding for purposes of this Section 3.05(a)) any such increased costs or reduction in amount resulting from (i) Indemnified Taxes indemnifiable under Section 3.01, (ii) Taxes described in clauses (b) through (d) in the definition of Excluded Taxes, (iii) Connection Income Taxes and (iv) reserve requirements reflected in any Term Benchmark), then within fifteen (15) days after demand of such Lender setting forth in reasonable detail such increased costs (with a copy of such demand to the Administrative Agent given in accordance with Section 3.06), the Borrowers shall pay to such Lender such additional amounts as will compensate such Lender for such increased cost or reduction.

(b) If any Lender reasonably determines that the introduction of or any change in or in the interpretation any Law regarding capital adequacy and liquidity requirements or any change therein or in the interpretation thereof, in each case after the date hereof, or compliance by such Lender (or its Lending Office) therewith, has the effect of materially reducing the rate of return on the capital of such Lender or any corporation controlling such Lender as a consequence of such Lender's obligations hereunder (taking into consideration its policies with respect to capital adequacy and such Lender's desired return on capital as of the Closing Date or the date it becomes a Lender hereunder), then within fifteen (15) days after demand of such Lender setting forth in reasonable detail the charge and the calculation of such reduced rate of return (with a copy of such demand to the Administrative Agent given in accordance with Section 3.06), the Borrowers shall pay to such Lender such additional amounts as will compensate such Lender for such reduction.

(c) The Borrowers shall pay to each Lender, (i) as long as such Lender shall be required to maintain reserves or liquidity with respect to liabilities or assets consisting of or including Term Benchmark funds or deposits, additional interest on the unpaid principal amount of each Term Benchmark Loan equal to the actual costs of such reserves or liquidity allocated to such Loan by such Lender (as determined by such Lender in good faith, which determination shall be conclusive in the absence of manifest error), and (ii) as long as such Lender shall be required to comply with any liquidity requirement, reserve ratio requirement or analogous requirement of any other central banking or financial regulatory authority imposed in respect of the maintenance of the Commitments or the funding of the Term Benchmark Loans, such additional costs (expressed as a percentage per annum and rounded upwards, if necessary, to the nearest five decimal places) equal to the actual costs allocated to such Commitment or Loan by such Lender (as determined by such Lender in good faith, which determination shall be conclusive absent manifest error) which in each case shall be due and payable on each date on which interest is payable on such Loan; provided the Borrowers shall have received at least fifteen (15) days' prior written notice (with a copy to the Administrative Agent) of such additional interest or cost from such Lender. If a Lender fails to give written notice fifteen (15th) days prior to the relevant Interest Payment Date, such additional interest or cost shall be due and payable fifteen (15) days from receipt of such written notice.

(d) For purposes of this Section 3.05, (i) the Dodd-Frank Wall Street Reform and Consumer Protection Act and all requests, rules, regulations, guidelines or directives thereunder or issued in connection therewith and (ii) all requests, rules, guidelines, requirements and directives promulgated by the Bank for International Settlements, the Basel Committee on Banking Supervision (or any successor or similar authority) or the United States or foreign regulatory authorities, in each case pursuant to Basel III, shall, in each case, be deemed to have gone into effect after the date hereof, regardless of the date enacted, adopted or issued.



Section 3.06 Funding Losses. In the event of (a) the payment of any principal of any Term Benchmark Loan other than on the last day of an Interest Period applicable thereto (including as a result of an Event of Default or an optional or mandatory prepayment of Loans), (b) the conversion of any Term Benchmark Loan other than on the last day of the Interest Period applicable thereto, (c) the failure to borrow, convert, continue or prepay any Term Benchmark Loan on the date specified in any notice delivered pursuant hereto (regardless of whether such notice may be revoked under Section 2.05(a) and is revoked in accordance therewith), (d) the assignment of any Term Benchmark Loan other than on the last day of the Interest Period applicable thereto as a result of a request by any Borrower pursuant to Section 3.08 or (e) the failure by any Borrower to make any payment of any Loan on its scheduled due date, then, in any such event, such Borrower shall compensate each Lender for the loss, cost and expense (other than any lost profits) attributable to such event. In the case of a Term Benchmark Loan, such loss, cost or expense to any Lender shall be deemed to include an amount determined by such Lender to be the excess, if any, of (x) the amount of interest which would have accrued on the principal amount of such Loan had such event not occurred, at the Term SOFR Rate that would have been applicable to such Loan, for the period from the date of such event to the last day of the then current Interest Period therefor (or, in the case of a failure to borrow, convert or continue, for the period that would have been the Interest Period for such Loan), over (y) the amount of interest which would accrue on such principal amount for such period at the interest rate which such Lender would bid were it to bid, at the commencement of such period, for deposits of a comparable amount and period from other banks in the applicable offshore interbank market, whether or not such Term Benchmark Loan was in fact so funded; provided, however, that such Borrower shall not be required to compensate any Lender for any costs of terminating or liquidating any hedge or trading position (including any rate swap, basis swap, forward rate transaction, interest rate option, cap, collar or floor transaction, or any similar transaction). A certificate of any Lender setting forth the computation in reasonable detail of any amount or amounts that such Lender is entitled to receive pursuant to this Section shall be delivered to the Borrower Representative and shall be conclusive absent manifest error. The applicable Borrower shall pay such Lender the amount shown as due on any such certificate within thirty (30) days after receipt thereof.

For the purposes of calculating the amounts payable under this Section 3.06, any “floor” requirement shall be disregarded.

Section 3.07 Matters Applicable to All Requests for Compensation.

(a) A certificate of any Agent or any Lender claiming compensation under this Article III and setting forth in reasonable detail a calculation of the additional amount or amounts to be paid to it hereunder shall be conclusive in the absence of manifest error. In determining such amount, such Agent or such Lender may use any reasonable averaging and attribution methods. With respect to any Lender’s claim for compensation under Section 3.03, 3.04 or 3.05, the Loan Parties and Grantors shall not be required to compensate such Lender for any amount incurred more than 180 days prior to the date that such Lender notifies the Borrowers of the event that gives rise to such claim; provided that, if the circumstance giving rise to such claim is retroactive, then such 180-day period referred to above shall be extended to include the period of retroactive effect thereof.

(b) If any Lender requests compensation under Section 3.05, or the Borrowers are required to pay any additional amount to any Lender, any L/C Issuer, or any Governmental Authority for the account of any Lender or any L/C Issuer pursuant to Section 3.01, or if any Lender gives a notice pursuant to Section 3.03, then such Lender or the L/C Issuer, as applicable, will, if requested by the Borrowers and at the Borrowers’ expense, use commercially reasonable efforts to designate another Lending Office for any Loan or Letter of Credit affected by such event; provided that such efforts (i) would eliminate or reduce amounts payable pursuant to Section 3.01, 3.03 or 3.05, as applicable, in the future and (ii) would not, in the judgment of such Lender or such L/C Issuer, as applicable, be inconsistent with the internal policies of, or otherwise be disadvantageous in any material legal, economic or regulatory respect to such Lender or its Lending Office or such L/C Issuer. The provisions of this clause (b) shall not affect or postpone any Obligations of the Borrowers or rights of such Lender pursuant to Section 3.05.

(c) If any Lender requests compensation by the Borrowers under Section 3.05, the Borrowers may, by notice to such Lender (with a copy to the Administrative Agent), suspend the obligation of such Lender to make or continue from one Interest Period to another Term Benchmark Loans, or to convert Base Rate Loans into Term Benchmark Loans, until the event or condition giving rise to such request ceases to be in effect (in which case the provisions of Section 3.07(g) shall be applicable); provided that such suspension shall not affect the right of such Lender to receive the compensation so requested for any amounts so accrued prior to such suspension.

(d) If the obligation of any Lender to make or continue from one Interest Period to another any Term Benchmark Loan, or to convert Base Rate Loans into Term Benchmark Loans shall be suspended pursuant to Section 3.04 hereof, such Lender's Term Benchmark Loans shall be automatically converted into Base Rate Loans on the last day(s) of the then current Interest Period(s) for such Term Benchmark Loans (or, in the case of an immediate conversion required by Section 3.03, on such earlier date as required by Law) and, unless and until (i) establishment of a Benchmark Replacement or (ii) such Lender gives notice as provided below that the circumstances specified in Section 3.03, 3.04 or 3.05 hereof that gave rise to such conversion no longer exist:

(i) to the extent that such Lender's Term Benchmark Loans have been so converted, all payments and prepayments of principal that would otherwise be applied to such Lender's Term Benchmark Loans shall be applied instead to its Base Rate Loans; and

(ii) all Loans that would otherwise be made or continued from one Interest Period to another by such Lender as Term Benchmark Loans shall be made or continued instead as Base Rate Loans, and all Base Rate Loans of such Lender that would otherwise be converted into Term Benchmark Loans shall remain as Base Rate Loans.

(e) If any Lender gives notice to the Borrowers (with a copy to the Administrative Agent) that the circumstances specified in Section 3.03, 3.04 or 3.05 hereof that gave rise to the conversion of such Lender's Term Benchmark Loans pursuant to Section 3.04 no longer exist (which such Lender agrees to do promptly upon such circumstances ceasing to exist) at a time when Term Benchmark Loans made by other Lenders are outstanding, such Lender's Base Rate Loans shall be automatically converted, on the first day(s) of the next succeeding Interest Period(s) for such outstanding Term Benchmark Loans, to the extent necessary so that, after giving effect thereto, all Loans held by the Lenders holding Term Benchmark Loans and by such Lender are held pro rata (as to principal amounts, interest rate basis, and Interest Periods) in accordance with their respective Commitments.

(f) A Lender shall not be entitled to any compensation pursuant to the foregoing sections to the extent such Lender is not imposing such charges or requesting such compensation from borrowers (similarly situated to the Borrowers hereunder) under comparable syndicated credit facilities.

#### Section 3.08 Replacement of Lenders under Certain Circumstances.

(a) If at any time (i) the Borrowers become obligated to pay additional amounts or Indemnified Taxes described in Section 3.01 or 3.05 as a result of any condition described in such Sections or any Lender ceases to make Term Benchmark Loans as a result of any condition described in Section 3.03 or 3.04, (ii) any Lender becomes a Defaulting Lender or (iii) any Lender becomes a Non-Consenting Lender (collectively, a "Replaceable Lender"), then the Borrowers may, on one (1) Business Day's prior written notice from the Borrowers to the Administrative Agent and such Lender (for the avoidance of doubt, such notice shall be deemed provided on the same day that an amendment or waiver is posted to Lenders for consent), either (x) replace such Lender by causing such Lender to (and such Lender shall be obligated to) assign pursuant to Section 10.07(b) (with the assignment fee to be paid by the Borrowers in such instance unless waived by the Administrative Agent) all of its rights and obligations under this Agreement (or, in

the case of a Non-Consenting Lender, all of its rights and obligations under this Agreement with respect to the Facility or Facilities for which its consent is required) to one or more Eligible Assignees; provided that none of the Administrative Agent or any Lender shall have any obligation to the Borrowers to find a replacement Lender or other such Person or (y) terminate the Commitment of such Lender or L/C Issuer or prepay the Loans, as the case may be, and (1) in the case of a Lender (other than an L/C Issuer), repay all Obligations of the Borrowers owing (and the amount of all accrued interest and fees in respect thereof) to such Lender relating to the Loans and participations held by such Lender as of such termination date and (2) in the case of an L/C Issuer, repay all obligations of the Borrowers owing to such L/C Issuer relating to the Loans and participations held by such L/C Issuer as of such termination date and cancel or backstop on terms satisfactory to such L/C Issuer any Letters of Credit issued by it; provided, further, that (x) in the case of any such replacement of, or termination of Commitments with respect to a Non-Consenting Lender such replacement or termination shall be sufficient (together with all other consenting Lenders including any other replacement Lender) to cause the adoption of the applicable modification, waiver or amendment of the Loan Documents and (y) in the case of any such replacement as a result of Borrowers having become obligated to pay amounts described in Section 3.01 or 3.05, such replacement would eliminate or reduce payments pursuant to Section 3.01 or 3.05, as applicable, in the future. Any Lender being replaced pursuant to this Section 3.08(a) shall (I) execute and deliver an Assignment and Assumption with respect to such Lender's Commitment and outstanding Loans and participations in L/C Obligations and (II) subject to clause (C) below, deliver any Notes evidencing such Loans to the Borrowers or the Administrative Agent (for return to the Borrowers). Pursuant to such Assignment and Assumption, (A) the assignee Lender shall acquire all or a portion, as the case may be, of the assigning Lender's Commitment and outstanding Loans and participations in L/C Obligations, (B) all Obligations relating to the Loans and participations (and the amount of all accrued interest, fees and premiums in respect thereof) so assigned shall be paid in full by the assignee Lender to such assigning Lender concurrently with such assignment and assumption and (C) upon such payment and, if so requested by the assignee Lender, the assigning Lender shall deliver to the assignee Lender the applicable Note or Notes executed by the Borrowers, the assignee Lender shall become a Lender hereunder and the assigning Lender shall cease to constitute a Lender hereunder with respect to such assigned Loans, Commitments and participations, except with respect to indemnification provisions under this Agreement, which shall survive as to such assigning Lender. In connection with any such replacement, if any such Replaceable Lender does not execute and deliver to the Administrative Agent a duly executed Assignment and Assumption reflecting such replacement within two (2) Business Days of the date on which the assignee Lender executes and delivers such Assignment and Assumption to such Replaceable Lender, then such Replaceable Lender shall be deemed to have executed and delivered such Assignment and Assumption without any action on the part of the Replaceable Lender. In connection with the replacement of any Lender pursuant to this Section 3.08(a), the Borrowers shall pay to such Lender such amounts as may be required pursuant to Section 3.06.

(b) Notwithstanding anything to the contrary contained above, (i) any Lender that acts as an L/C Issuer may not be replaced hereunder at any time that it has any Letter of Credit outstanding hereunder unless Cash Collateral has been deposited into a cash collateral account in amounts and pursuant to arrangements consistent with the requirements of Section 2.16 or other arrangements satisfactory to such L/C Issuer (including the furnishing of a back-up standby letter of credit in form and substance, and issued by an issuer reasonably satisfactory to such L/C Issuer) have been made with respect to such outstanding Letter of Credit and (ii) the Lender that acts as the Administrative Agent may not be replaced hereunder except in accordance with the terms of Section 9.09.

(c) In the event that (i) a Borrower or the Administrative Agent has requested the Lenders to consent to a waiver of any provisions of the Loan Documents or to agree to any amendment or other modification thereto, (ii) the waiver, amendment or modification in question requires the agreement of all affected Lenders in accordance with the terms of Section 10.01 or all the Lenders with respect to a certain class of the Loans and (iii) the Required Lenders have agreed to such waiver, amendment or modification,

any Lender who does not agree to such waiver, amendment or modification, in each case, shall be deemed a “Non-Consenting Lender”; provided that the term “Non-Consenting Lender” shall also include any Lender that rejects (or is deemed to reject) (x) a loan modification offer under Section 10.01, which loan modification has been accepted by at least the Majority Lenders of the respective Tranche of Loans whose Loans and/or Commitments are to be extended pursuant to such loan modification, (y) any Lender that does not elect to become a lender in respect of any Specified Refinancing Debt pursuant to Section 2.18 or (z) rejects (or is deemed to reject) an Extension under Section 2.22, which Extension has been accepted by at least the Majority Lenders of the respective Tranche of Loans whose Loans and/or Commitments are to be extended pursuant to such Extension. For the avoidance of doubt, if any applicable Lender shall be deemed a Non-Consenting Lender and is required to assign all or any portion of its Initial Term Loans or its Initial Term Loans are prepaid by the Borrowers, pursuant to Section 3.08(a), on or prior to the date that is twelve (12) months after the Closing Date in connection with any such waiver, amendment or modification constituting a Repricing Event pursuant to clause (ii) of the definition thereof, the Borrowers shall pay such Non-Consenting Lender a fee equal to 1.00% of the principal amount of the Initial Term Loans, as applicable, so assigned or prepaid.

(d) Survival. All of the Loan Parties’ and the Grantors’ obligations under this Article III shall survive termination of the Aggregate Commitments and repayment of all other Obligations hereunder, any assignment by or replacement of a Lender and any resignation or removal of the Administrative Agent.

#### ARTICLE IV

##### **CONDITIONS PRECEDENT TO CREDIT EXTENSIONS**

Section 4.01 Conditions to the Initial Credit Extension on the Closing Date. The obligation of each Lender to make its initial Credit Extension hereunder on the Closing Date is subject to satisfaction or waiver in accordance with Section 10.01 of each of the following conditions precedent, subject in all respects to Section 6.16 except as otherwise agreed between the Borrower Representative and the Administrative Agent on the Closing Date:

(a) The Administrative Agent or the Collateral Agent, as applicable, shall have received all of the following, each properly executed by a Responsible Officer of the signing Loan Party and signing Grantor, each dated as of the Closing Date (or, in the case of certificates of governmental officials or as otherwise agreed by the Administrative Agent, as of a recent date on or prior to the Closing Date), or, as specified below, the Spin-Off Date or the Foreign Effective Date, and each accompanied by their respective applicable schedules and other attachments:

- (i) executed counterparts of (x) this Agreement from each Borrower and the Administrative Agent, L/C Issuers and the initial Lenders,
- (y) the Intercreditor Agreement from the Administrative Agent, the Collateral Agent, the Senior Notes Trustee and the Senior Secured Notes Collateral Agent and acknowledged by each Loan Party and Grantor; provided that the Intercreditor Agreement shall be dated as of the Spin-Off Date (or, with respect to any Loan Party or Grantor that is a Non-U.S. Subsidiary, a joinder to the Intercreditor Agreement dated as of the Foreign Effective Date) and delivered in escrow on or prior to the Closing Date and shall be released from escrow automatically upon consummation of the Spin-off (or, with respect to any Loan Party or Grantor that is a Non-U.S. Subsidiary, the Foreign Effective Date) and (z) the Intercompany Subordination Agreement from the Administrative Agent, the Collateral Agent and each Loan Party and Grantor;

(ii) (x) executed counterparts of the Guaranty from each U.S. Loan Party party thereto and each applicable Collateral Document governed by the laws of the United States from each U.S. Loan Party party thereto; provided, in each case, that such documents shall be dated as of the date that the Spin-off is consummated (the “Spin-Off Date”) and delivered in escrow on or prior to the Closing Date and shall be released from escrow automatically, upon consummation of the Spin-off, and (y) executed counterparts of supplements to the Guaranty from each other Loan Party and each applicable Collateral Document governed by the laws of Japan or Korea from each other Loan Party and Grantor; provided, in each case, that such documents shall be dated as of the date immediately following the Spin-Off Date (the “Foreign Effective Date”) and delivered in escrow on or prior to the Closing Date and shall be released from escrow automatically on the Foreign Effective Date;

(iii) UCC-1 or such other financing statements or similar notices as shall be required by local law in form for filing, in each case, to the extent required by the applicable Collateral Documents (it being understood and agreed that such filings shall not be made until the Spin-off has been consummated; provided that no filing in any non-U.S. jurisdiction shall be made until the Foreign Effective Date);

(iv) (x) a global intercompany note signed by the Parent Borrower and each other Loan Party as of the Spin-off Date (the “Global Intercompany Note”), accompanied by an allonge to such Global Intercompany Note signed by the Parent Borrower and such Loan Parties and (y) all certificates, if any, evidencing the Equity Interests of any Person organized under the laws of the U.S., any state thereof or the District of Columbia, which constitute Collateral, accompanied by duly executed instruments of transfer or assignment in blank, all in form and substance reasonably satisfactory to the Collateral Agent; provided, in each case, that the foregoing (x) and (y) shall be delivered in escrow on or prior to the Closing Date and shall be released from escrow automatically upon consummation of the Spin-Off;

(v) a Note executed by the relevant Borrowers in favor of each Lender requesting a Note reasonably in advance of the Closing Date; and

(vi) a solvency certificate executed by the chief financial officer or similar officer, director or authorized signatory of the Parent Borrower (immediately after giving effect to the Transactions) substantially in the form attached hereto as Exhibit K.

(b) The Administrative Agent shall have received a certificate of a Responsible Officer of each Loan Party that is or is proposed to be a Loan Party or Grantor as of the Foreign Effective Date, dated the Closing Date, certifying as to the incumbency and genuineness of the signature of each officer of such Loan Party or Grantor executing Loan Documents to which it is a party and certifying that attached thereto is a true and complete copy of (i) the Organization Documents of such Loan Party and Grantor and, with respect to the certificate of incorporation or similar Organization Document, certified as of a recent date by the appropriate Governmental Authority in its jurisdiction of formation, (ii) resolutions duly adopted by the board of directors (or a similar governing body) of such Loan Party and Grantor authorizing and approving the transactions contemplated hereunder and the execution, delivery and performance of this Agreement and the other Loan Documents to which it is a party and (iii) a certificate as of a recent date of the good standing of such Loan Party and Grantor under the laws of its jurisdiction of organization or incorporation, if available.

(c) The Administrative Agent shall have received customary opinions of (i) Skadden, Arps, Slate, Meagher, Flom LLP, special counsel to the Borrowers, and (ii) each local counsel listed on Schedule 4.01(c), in each case, addressed to the Administrative Agent, the Collateral Agent and the Lenders and in a form consistent with generally accepted market practice.

(d) All fees required to be paid on the Closing Date pursuant to this Agreement and the Fee Letters and reasonable out-of-pocket expenses required to be paid on the Closing Date pursuant to this Agreement and the Fee Letters, to the extent invoiced at least five (5) Business Days prior to the Closing Date (or such later date as the Borrower Representative may reasonably agree) shall have been paid (which amounts may be offset against the proceeds of the Facilities).

(e) The Lenders shall have received at least three (3) Business Days prior to the Closing Date all documentation and other information about the Borrowers as has been reasonably requested in writing at least ten (10) Business Days prior to the Closing Date by such Lenders that they reasonably determine is required by regulatory authorities under applicable “know your customer” and anti-money laundering rules and regulations, including the PATRIOT Act and the Beneficial Ownership Regulation.

(f) The Administrative Agent and, if applicable, the L/C Issuer shall have received a Request for Credit Extension in accordance with the requirements hereof.

(g) The representations and warranties of the Borrowers and each other Loan Party and Grantor contained in Article V or any other Loan Document shall be true and correct in all material respects (and in all respects if any such representation or warranty is already qualified by materiality) on and as of the Closing Date, except to the extent that such representations and warranties specifically refer to an earlier date, in which case they shall be true and correct in all material respects (and in all respects if any such representation or warranty is already qualified by materiality) as of such earlier date.

(h) The Administrative Agent shall have received a certificate of a Responsible Officer of the Parent Borrower certifying that the conditions set forth in Sections 4.01(g), (i), (j) and (k) have been satisfied.

(i) No Default or Event of Default shall exist, or would result from the initial Credit Extension on the Closing Date or from the application of the proceeds therefrom.

(j) To the extent not publicly filed with the SEC, the Administrative Agent shall have received copies of the Separation and Distribution Agreement, the Tax Matters Agreement, the Employee Matters Agreement, the Transition Services Agreement and the Intellectual Property Cross-License Agreement (each of which may be in escrow), each executed by the parties thereto and certified by a Responsible Officer of the Parent Borrower as true and complete. The terms of each such document shall be consistent in all material respects with the information set forth in the Form 10, which shall not have been amended in a manner that is materially adverse to the Lenders (as reasonably determined by the Parent Borrower in good faith).

(k) The Spin-off shall have been consummated or satisfactory arrangements shall have been implemented providing that within two (2) Business Days of the initial funding of the Loans on the Closing Date, the Spin-off shall be consummated, in accordance with applicable Law and the Separation and Distribution Agreement and, in all material respects, consistent with the information set forth in the Form 10.

Section 4.02 Conditions to Credit Extensions After the Closing Date. The obligation of each Lender to honor any Request for Credit Extension (other than a Committed Loan Notice requesting only a conversion of Loans to the other Type, or a continuation of Term Benchmark Loan) after the Closing Date is subject to the following conditions precedent:

(a) (i) Unless such Request for Credit Extension is in connection with a New Loan Commitment or Incremental Equivalent Debt subject to the provisions in Section 1.02(i), the representations and warranties of the Borrowers and each other Loan Party and Grantor contained in Article V or any other Loan Document shall be true and correct in all material respects (and in all respects if any such representation or warranty is already qualified by materiality) on and as of the date of such Credit

Extension except to the extent that such representations and warranties specifically refer to an earlier date, in which case they shall be true and correct in all material respects (and in all respects if any such representation or warranty is already qualified by materiality) as of such earlier date and the representations and warranties contained in Sections 5.05(a) and (b) shall be deemed to refer to the most recent financial statements furnished pursuant to Sections 6.01(a) and (b), respectively, prior to such proposed Credit Extension, and (ii) if such Request for Credit Extension is in connection with a New Loan Commitment or Incremental Equivalent Debt subject to the provisions in Section 1.02(i), the Specified Representations shall be true and correct in all material respects (and in all respects if any such representation or warranty is already qualified by materiality) on and as of the date of such Credit Extension, except to the extent that such representations and warranties specifically refer to an earlier date, in which case they shall be true and correct in all material respects (and in all respects if any such representation or warranty is already qualified by materiality) on and as of the date of such Credit Extension, except to the extent that such representations and warranties specifically refer to an earlier date, in which case they shall be true and correct in all material respects (and in all respects if any such representation or warranty is already qualified by materiality) as of such earlier date.

(b) Subject to the provisions in Section 1.02(i), no Default or Event of Default shall exist, or would result from such proposed Credit Extension or from the application of the proceeds therefrom.

(c) The Administrative Agent and, if applicable, the applicable L/C Issuer shall have received a Request for Credit Extension in accordance with the requirements hereof.

(d) Other than with respect to the making of the Initial Term Loans and issuance of Letters of Credit pursuant to Section 2.03(a)(v) on the Closing Date, the Spin-Off has been consummated.

Each Request for Credit Extension (other than a Committed Loan Notice requesting only a conversion of Loans to the other Type or a continuation of Term Benchmark Loans) submitted by the Borrowers shall be deemed to be a representation and warranty that the conditions specified in Sections 4.02(a) and (b) have been satisfied (unless waived) on and as of the date of the applicable Credit Extension.

## ARTICLE V

### REPRESENTATIONS AND WARRANTIES

Each Borrower represents and warrants (in each case, after giving effect to the Transactions) to the Administrative Agent and the Lenders, on the Closing Date, the Spin-Off Date, the Foreign Effective Date, and on each other date thereafter on which a Credit Extension is made, that:

Section 5.01 Existence, Qualification and Power. Each Loan Party and Grantor (subject, in the case of clause (c), to the Legal Reservations and Section 5.03) (a) is a Person duly organized, formed or incorporated, validly existing and in good standing (to the extent such concept is applicable to such entity in its relevant jurisdiction of formation) under the Laws of the jurisdiction of its incorporation or organization, (b) has all requisite power and authority to (i) own or lease its assets and carry on its business as currently conducted and (ii) execute, deliver and perform its obligations under the Loan Documents to which it is a party, (c) is duly qualified and is authorized to do business and in good standing (to the extent such concept is applicable to such entity in its relevant jurisdiction of formation) under the Laws of each jurisdiction where its ownership, lease or operation of properties or the conduct of its business requires such qualification and (d) has all requisite governmental licenses, authorizations, consents and approvals to operate its business as currently conducted; except in each case referred to in clause (a) (other than with respect to the Borrowers), (b)(i), (b)(ii) (other than with respect to the Borrowers), (c) and (d), to the extent that any failure to be so or to have such would not reasonably be expected to have, individually or in the aggregate, a Material Adverse Effect.

Section 5.02 Authorization; No Contravention. The execution, delivery and performance by each Loan Party and each Grantor of each Loan Document to which such Person is a party (a) have been duly authorized by all necessary corporate or other organizational action, (b) do not contravene the terms of any of such Person's Organization Documents, (c) conflict with or result in any breach or contravention of, or the creation of any Lien (other than Permitted Liens) under, any Contractual Obligation to which such Person is a party or any order, injunction, writ or decree of any Governmental Authority or any arbitral award to which such Person or its property is subject and (d) do not violate any Law; except, in each case, to the extent that such violation would not reasonably be expected to have, individually or in the aggregate, a Material Adverse Effect.

Section 5.03 Governmental Authorization; Other Consents. No approval, consent, exemption, authorization or other action by, or notice to, or filing with, any Governmental Authority or any other Person is necessary or required in connection with (a) the execution, delivery, performance by, or enforcement against, any Loan Party or Grantor of this Agreement or any other Loan Document, or for the consummation of the Transactions, (b) the grant by any Loan Party or any Grantor of the Liens granted by it pursuant to the Collateral Documents or (c) the perfection or maintenance of the Liens created under the Collateral Documents, in each case, except for (w) filings and registrations necessary to perfect the Liens on the Collateral granted by the Loan Parties or the Grantors in favor of the Collateral Agent to the extent required hereunder or under the Collateral Documents, including (1) with respect to the U.S. Loan Parties, UCC financing statements, filings in the United States Patent and Trademark Office and the United States Copyright Office and (2) with respect to the Loan Parties and Grantors that are not U.S. Loan Parties, the applicable Perfection Requirements, (x) the approvals, consents, exemptions, authorizations, actions, notices and filings which have been duly obtained, taken, given or made and are in full force and effect, (y) those approvals, consents, exemptions, authorizations or other actions, notices or filings set out in the Collateral Documents and (z) those approvals, consents, exemptions, authorizations or other actions, notices or filings, the failure of which to obtain or make would not reasonably be expected to have, individually or in the aggregate, a Material Adverse Effect.

Section 5.04 Binding Effect. This Agreement and each other Loan Document has been duly executed and delivered by each Loan Party and each Grantor (subject, in each case, to the Legal Reservations and Section 5.03) that is party thereto. Subject to the Legal Reservations, this Agreement and each other Loan Document constitutes a legal, valid and binding obligation of such Loan Party and such Grantor, enforceable against each Loan Party that is party thereto in accordance with its terms.

Section 5.05 Financial Statements; No Material Adverse Effect.

(a) The audited combined financial statements of the Parent Borrower and its Subsidiaries for the fiscal year of the Parent Borrower ended December 31, 2024 that are included in the Form 10 fairly present in all material respects the combined financial condition of the Parent Borrower and its Subsidiaries as of the dates thereof and their results of operations for the period covered thereby in accordance with GAAP, except as otherwise expressly noted therein.

(b) The unaudited combined financial statements of the Parent Borrower and its Subsidiaries for the fiscal quarter of the Parent Borrower ending March 31, 2025 that are included in the Form 10 fairly present in all material respects the combined financial condition of the Parent Borrower and its Subsidiaries as of the date thereof and their results of operations for the period covered thereby in accordance with GAAP, except as otherwise expressly noted therein and subject to the absence of footnotes and to normal and recurring year-end audit adjustments.



(c) Since the Closing Date, there has been no event or circumstance, either individually or in the aggregate, that has had or would reasonably be expected to have a Material Adverse Effect (it being understood and agreed that in no event shall the Spin-off Transactions be deemed to result in a Material Adverse Effect).

Section 5.06 Litigation. Except for the Disclosed Matters, there are no actions, suits, proceedings, claims or disputes pending or, to the knowledge of any Borrower, threatened in writing, at law, in equity, in arbitration or before any Governmental Authority, against any Borrower or any Restricted Subsidiary, or against any of their properties or revenues that would reasonably be expected to have a Material Adverse Effect.

Section 5.07 Use of Proceeds. The Borrowers (a) will use the proceeds of the Initial Term Loans to finance the Transactions, including to fund the Special Dividend, to pay the Transaction Costs (including paying any fees, commissions and expenses associated therewith), to fund cash on the balance sheet of the Parent Borrower and its Restricted Subsidiaries and, to the extent any proceeds remain after application of the foregoing, for working capital and for general corporate purposes of the Borrowers and their Restricted Subsidiaries and for any other purpose not prohibited by this Agreement (including the financing of capital expenditures, restricted payments, acquisitions and other Investments permitted hereunder); and (b) will use the proceeds of the Revolving Credit Loans to (i) fund the Transaction Costs (including paying any fees, commissions and expenses associated therewith) and (ii) finance the working capital needs and for general corporate purposes of the Borrowers and their Restricted Subsidiaries and for any other purpose not prohibited by this Agreement (including the financing of capital expenditures, restricted payments, acquisitions and other Investments permitted hereunder).

Section 5.08 Ownership of Property; Liens. Each Loan Party has valid title to, or leasehold or subleasehold interests in (or other valid right to use), all real property material to the conduct of its business, free and clear of all Liens except for defects in title that do not materially interfere with its ability to conduct its business or to utilize such assets for their intended purposes and Liens permitted by Section 7.02, except where the failure to have such title or interests would not reasonably be expected to have, individually or in the aggregate, a Material Adverse Effect on the use or operation of any real property material for the conduct of the Borrowers' business, taken as a whole. The property of the Loan Parties, taken as a whole, (a) is in good operating order, condition and repair (ordinary wear and tear and damage by casualty excepted) and (b) constitutes all the property which is required for the business and operations of the Loan Parties as presently conducted, in each case of the foregoing clauses (a) and (b), to the extent that it would not be reasonably likely to have a Material Adverse Effect.

Section 5.09 Environmental Compliance. Except for the Disclosed Matters and except as would not, individually or in the aggregate, reasonably be expected to have a Material Adverse Effect:

(a) The Borrowers and the Restricted Subsidiaries and their respective operations and properties are in compliance with all applicable Environmental Laws and Environmental Permits and none of the Borrowers or the Restricted Subsidiaries are subject to any Environmental Liability.

(b) Each of the Borrowers and its Restricted Subsidiaries has obtained, or has applied in a timely manner for, all Environmental Permits required by or from a Governmental Authority under Environmental Law for the conduct of the businesses and operations of the Borrowers and the Restricted Subsidiaries as conducted on the date of this Agreement, and the ownership, operation and use of their property, under Environmental Law.

(c) All Hazardous Materials generated, used, treated, handled or stored at, or transported to or from, any property currently owned or operated (during the period of such ownership or operation) or, to the knowledge of the Borrowers, formerly owned or operated by the Borrowers or any of the Restricted Subsidiaries or by any predecessors in interest of the Borrowers or the Restricted Subsidiaries, have been disposed of in a manner not reasonably expected to result in liability to the Borrowers or any of the Restricted Subsidiaries.

Section 5.10 Taxes. The Borrowers and each of the Restricted Subsidiaries have filed or have caused to be filed all Tax returns and reports required to be filed, and have paid all Taxes (including in its capacity as a withholding agent) levied or imposed upon them or their properties, income or assets otherwise due and payable, except those (a) which are being contested in good faith by appropriate proceedings diligently conducted and for which adequate reserves have been provided in accordance with and to the extent required by GAAP (or, with respect to any Non-U.S. Subsidiary, in conformity with generally accepted accounting principles that are applicable in its jurisdiction of organization) or (b) with respect to which the failure to make such filing or payment would not reasonably be expected, individually or in the aggregate, to have a Material Adverse Effect.

Section 5.11 Employee Benefits Plans.

(a) Except as would not reasonably be expected, individually or in the aggregate, to result in a Material Adverse Effect, (i) each Plan is in compliance with the applicable provisions of ERISA, the Code and other applicable federal and state laws and (ii) each Plan that is intended to be a qualified plan under Section 401(a) of the Code may rely upon an opinion letter for a prototype plan or has received a favorable determination letter from the IRS to the effect that the form of such Plan is qualified under Section 401(a) of the Code and the trust related thereto has been determined by the IRS to be exempt from federal income tax under Section 501(a) of the Code, or an application for such a letter will be submitted to the IRS within the applicable required time period with respect thereto or is currently being processed by the IRS, and to the knowledge of any Loan Party, nothing has occurred that would prevent, or cause the loss of, such tax-qualified status.

(b) Except as would not reasonably be expected, individually or in the aggregate, to result in a Material Adverse Effect, (i) each Non-U.S. Plan is in compliance with all requirements of Law applicable thereto and the respective requirements of the governing documents for such plan and (ii) with respect to each Non-U.S. Plan, none of the Loan Parties or any of their Subsidiaries or any of their respective directors, officers, employees or, to the knowledge of any Loan Party, agents has engaged in a transaction that would subject any Loan Party or any of its Subsidiaries, directly or indirectly, to any tax or civil penalty.

(c) There are no pending or, to the knowledge of any Loan Party, threatened claims, actions or lawsuits, or action by any Governmental Authority, with respect to any Plan that would reasonably be expected to have a Material Adverse Effect. There has been no “prohibited transaction” within the meaning of Section 4975 of the Code or Section 406 or 407 of ERISA (and not otherwise exempt under Section 408 of ERISA) with respect to any Plan that would reasonably be expected to result in a Material Adverse Effect.

(d) (i) No ERISA Event has occurred and neither any Loan Party nor, to the knowledge of any Loan Party, any ERISA Affiliate is aware of any fact, event or circumstance that would reasonably be expected to constitute or result in an ERISA Event with respect to any Plan or Multiemployer Plan, (ii) each Loan Party and each ERISA Affiliate has met all applicable requirements under the Pension Funding Rules in respect of each Plan, and no waiver of the minimum funding standards under such Pension Funding Rules has been applied for or obtained, (iii) there exists no Unfunded Pension Liability, (iv) neither any Loan Party nor any ERISA Affiliate has engaged in a transaction that would be subject to Sections 4069 or 4212(c) of ERISA and (v) no Plan has been terminated by the plan administrator thereof or by the PBGC and no event or circumstance has occurred or exists that would reasonably be expected to cause the PBGC to institute proceedings under Title IV of ERISA to terminate any Plan or Multiemployer Plan, except with respect to each of the foregoing clauses (i) through (v) of this Section 5.11(d), as would not reasonably be expected, individually or in the aggregate, to result in a Material Adverse Effect.

(e) (i) With respect to each Non-U.S. Plan, reserves have been established in the financial statements furnished to Lenders in respect of any unfunded liabilities in accordance with applicable Law and, where required, in accordance with ordinary accounting practices in the jurisdiction in which such Non-U.S. Plan is maintained, (ii) except as disclosed or reflected in such financial statements, there are no aggregate unfunded liabilities with respect to Non-U.S. Plans and the present value of the aggregate accumulated benefit liabilities of all Non-U.S. Plans did not, as of the last annual valuation date applicable thereto, exceed the assets of all such Non-U.S. Plans, except with respect to each of the foregoing clauses (i) and (ii) of this Section 5.11(e), as would not reasonably be expected, individually or in the aggregate, to result in a Material Adverse Effect.

Section 5.12 Subsidiaries; Capital Stock. As of the Closing Date, there are no Unrestricted Subsidiaries, and all of the outstanding Capital Stock in each Restricted Subsidiary that is owned by a Loan Party or Grantor has been validly issued, is fully paid and non-assessable (other than for those Restricted Subsidiaries that are limited liability companies and limited partnerships and to the extent such concepts are not applicable in the relevant jurisdiction) and are owned free and clear of all Liens except for Permitted Liens.

Section 5.13 Margin Regulations; Investment Company Act.

(a) Each of the Loan Parties is not engaged and will not engage, principally or as one of its important activities, in the business of purchasing or carrying Margin Stock, or extending credit for the purpose of purchasing or carrying Margin Stock and no proceeds of any Borrowings or drawings under any Letter of Credit will be used to purchase or carry any Margin Stock or to extend credit to others for the purpose of purchasing or carrying any Margin Stock in each case in violation of Regulations T, U or X of the FRB. Neither the making of any Credit Extension hereunder nor the use of proceeds thereof will violate any regulations of the FRB, including the provisions of Regulations T, U or X of the FRB.

(b) None of the Loan Parties is required to be registered as an “investment company” under the Investment Company Act of 1940, as amended.

Section 5.14 Disclosure. As of the Closing Date, no report, financial statement, certificate or other written information furnished by or on behalf of any Loan Party or Grantor (other than financial estimates, financial forecasts, projected financial information, pro forma financial information and other forward-looking information (collectively, the “Projections”) and information of a general economic or industry nature) to any Agent or any Lender in connection with the Transactions and the negotiation of this Agreement or delivered hereunder or any other Loan Document (as modified or supplemented by other information so furnished), when furnished and taken as a whole, contains any material misstatement of fact or omits to state any material fact necessary to make the statements therein (when taken as a whole), in light of the circumstances under which they were made, not materially misleading; provided that, with respect to the Projections, the Borrowers represent only that such information was prepared in good faith based upon assumptions believed to be reasonable at the time of preparation and delivery; it being understood that the Projections, by their nature, are inherently uncertain and are not a guarantee of financial performance and that actual results may vary from such Projections and that such variances may be material and that the Borrowers make no representation and warranty that such Projections will in fact be realized. As of the Closing Date, in relation to the Initial Term Loans incurred by the Borrowers on such date, the information included in the Beneficial Ownership Certification, if applicable and to the extent delivered, is, to the knowledge of the Borrowers, true and correct in all respects.

Section 5.15 Compliance with Laws. Each Borrower and each Restricted Subsidiary is in compliance in all material respects with the requirements of all Laws and all orders, writs, injunctions and decrees applicable to it or to its properties, except in such instances in which (a) such requirement of Law or order, writ, injunction or decree is being contested in good faith by appropriate proceedings diligently conducted or (b) the failure to comply therewith, either individually or in the aggregate, would not reasonably be expected to have a Material Adverse Effect.

Section 5.16 Intellectual Property; Licenses, Etc. To the knowledge of the Borrowers, the Borrowers and each Subsidiary Guarantor owns, licenses or possesses the right to use, all of the trademarks, service marks, trade names, copyrights, patents, inventions, trade secrets, formulas, proprietary information and know-how (collectively, “IP Rights”) that are necessary for the operation of its respective business, as currently conducted, except to the extent such failure to own, license or possess, either individually or in the aggregate, would not reasonably be expected to have a Material Adverse Effect.

Section 5.17 Solvency. On the Closing Date, immediately after giving effect to the Transactions, the Parent Borrower and its Subsidiaries, on a consolidated basis, are Solvent.

Section 5.18 Perfection, Etc. Subject to the Legal Reservations and Section 5.03, each Collateral Document delivered pursuant to this Agreement will, upon execution and delivery thereof, be effective to create (to the extent described therein and (x) in the case of any Loan Party that is a Non-U.S. Subsidiary or in the case of any pledge of the Equity Interests of any Korean Subsidiary, subject to the Agreed Security Principles, and (y) subject to the other perfection requirements specifically set out in the Collateral Documents) in favor of the Collateral Agent for the benefit of the Secured Parties, legal, valid and enforceable Liens on, and security interests in, the Collateral described therein to the extent intended to be created thereby, except as may be limited by applicable domestic or foreign bankruptcy, winding-up, insolvency, fraudulent conveyance, reorganization (by way of voluntary arrangement, schemes of arrangements or otherwise), moratorium and other similar laws relating to or affecting creditors’ rights generally, general equitable principles (whether considered in a proceeding in equity or at law) and (a) when financing statements and other filings in the appropriate form are filed or registered, as applicable, in the offices of the Secretary of State of each Loan Party’s jurisdiction of organization or formation and applicable documents are filed and recorded as applicable in the United States Copyright Office or the United States Patent and Trademark Office and other applicable Perfection Requirements are completed and (b) upon the taking of possession or control by the Collateral Agent of such Collateral with respect to which a security interest may be perfected only by possession or control (which possession or control shall be given to the Collateral Agent to the extent possession or control by the Collateral Agent is required by the applicable Collateral Document), the Liens created by the Collateral Documents shall constitute fully perfected Liens on, and security interests in (to the extent intended to be created thereby and required to be perfected under the Loan Documents), all right, title and interest of the grantors in such Collateral in which a security interest may be perfected by the filing of such financing statements or by the taking of possession or control, in each case free and clear of any Liens other than Liens permitted hereunder.

Section 5.19 Sanctions Laws & Regulations.

(a) Each Borrower and each of their respective Subsidiaries are conducting their businesses in compliance in all material respects with applicable Sanctions Laws and Regulations. No Borrowing or Letter of Credit, or use of proceeds, will violate or result in the violation by any party hereto of any applicable Sanctions Laws and Regulations.

(b) None of (I) the Borrowers or any other Loan Party or any Grantor and (II) in any material respect, the Restricted Subsidiaries that are not Loan Parties or Grantors or any director, manager, officer, employee or, to the knowledge of the Borrowers, agent of the Borrowers or any of their respective Restricted Subsidiaries, in each case, (i) is a Sanctioned Person or (ii) is engaged in dealings in a Sanctioned Country or with a Sanctioned Person, in violation of Sanctions Laws and Regulations, and, in the case of directors, managers, officers, employees or agents of the Borrowers or any of their Restricted Subsidiaries, in their capacity as such.

Section 5.20 Anti-Corruption Laws. No part of the proceeds of any Loan or Letter of Credit will be used for any improper payments, directly or, to the knowledge of the Borrowers, indirectly, to any governmental official or employee, political party, official of a political party, candidate for political office, or anyone else acting in an official capacity for a Governmental Authority, or any other party (if applicable) in order to obtain, retain or direct business or obtain any improper advantage, in violation of the United States Foreign Corrupt Practices Act of 1977, as amended, the United Kingdom Bribery Act 2010, as amended, and any similar laws, rules or regulations issued, administered or enforced by any Governmental Authority having jurisdiction over the Borrowers (collectively, the “Anti-Corruption Laws”). The Borrowers have implemented and maintain in effect policies and procedures reasonably designed to ensure compliance by the Borrowers, their Subsidiaries and their respective directors, officers and employees with Anti-Corruption Laws, and the Borrowers, their Subsidiaries and their respective officers, directors and employees and, to the knowledge of the Borrowers, their respective agents, are in compliance in all respects with Anti-Corruption Laws.

Section 5.21 [Reserved].

Section 5.22 Insurance. The properties of each Borrower and each other Loan Party are insured with insurance companies that such Loan Party believes are financially sound and reputable and are not Affiliates of such Loan Party, in such amounts (after giving effect to any self-insurance compatible with the following standards), with such deductibles and covering such risks as are prudent in the reasonable business judgment of such Loan Party’s officers.

## **ARTICLE VI**

### **AFFIRMATIVE COVENANTS**

On and after the Closing Date until the Date of Full Satisfaction, the Borrowers shall, and shall (except in the case of the covenants set forth in Sections 6.01, 6.02 and 6.03) cause each Restricted Subsidiary to:

Section 6.01 Financial Statements. Deliver to the Administrative Agent for further distribution to each Lender:

(a) within ninety (90) days after the end of each fiscal year of the Parent Borrower (or, if later, within two (2) Business Days after the last day of any extension or deferral period permitted by the SEC from time to time for the filing of annual reports on Form 10-K or on any applicable equivalent form), starting with the fiscal year December 31, 2025, a consolidated balance sheet of the Parent Borrower and its Subsidiaries as at the end of such fiscal year, and the related consolidated statements of income or operations, shareholders’ equity and cash flows for such fiscal year, setting forth in each case in comparative form the figures for the previous fiscal year, all in reasonable detail and prepared in accordance with GAAP, audited and accompanied by a report and opinion of an independent public accountant of recognized national standing, which report and opinion shall not be subject to any “going concern” or like qualification, exception or explanatory paragraph or any qualification, exception or explanatory paragraph limiting the scope of such audit (other than any such qualification, exception or explanatory paragraph that is with respect to, or resulting from, (i) an upcoming maturity date under the Facilities or other Indebtedness, (ii) any actual or potential inability to satisfy a financial maintenance covenant, including the Financial Covenant, (iii) the activities, operations, financial results, assets or liabilities of any Unrestricted Subsidiary or (iv) any emphasis of matter);

(b) within forty-five (45) days after the end of each of the first three fiscal quarters of each fiscal year of the Parent Borrower thereafter (or, in the case of the first fiscal quarter of the Parent Borrower ending after the Closing Date that is not the fourth fiscal quarter, sixty (60) days after the end of such first fiscal quarter) (or, in each case, if later, within two (2) Business Days after the last day of any extension or deferral period permitted by the SEC from time to time for the filing of quarterly reports on Form 10-Q or on any applicable equivalent form), a condensed consolidated balance sheet of the Parent Borrower and its Subsidiaries as at the end of such fiscal quarter, and the related condensed consolidated statements of income or operations, shareholders' equity and cash flows for such fiscal quarter and for the portion of the fiscal year then ended, setting forth in each case in comparative form the figures for the corresponding fiscal quarter of the previous fiscal year and the corresponding portion of the previous fiscal year, all in reasonable detail and certified by a Responsible Officer of the Parent Borrower as fairly presenting in all material respects the financial condition, results of operations, shareholders' equity and cash flows of the Parent Borrower and its Subsidiaries in accordance with GAAP, subject only to normal year-end audit adjustments and the absence of footnotes; and

(c) concurrently with the delivery of any financial statements pursuant to Sections 6.01(a) and (b) above, calculations reflecting the adjustments necessary to eliminate the financial results of Unrestricted Subsidiaries (if any) from such consolidated financial statements (other than with respect to immaterial adjustments or eliminations due to Unrestricted Subsidiaries with de-minimis assets (taken as a whole)).

Notwithstanding the foregoing:

(i) (A) in the event that the Parent Borrower delivers to the Administrative Agent an Annual Report on Form 10-K for any fiscal year (or similar filing in the applicable jurisdiction), as filed with the SEC or in such form as would have been suitable for filing with the SEC (or similar governing body in the applicable jurisdiction, in each case), within the time frames set forth in clause (a) above, such Form 10-K shall satisfy all requirements of clause (a) of this Section 6.01 with respect to such fiscal year to the extent that it contains the information and report and opinion required by such clause (a) and such report and opinion does not contain any "going concern" or like qualification, exception or explanatory paragraph or any qualification, exception or explanatory paragraph as to the scope of audit (other than any such qualification, exception or explanatory paragraph expressly permitted to be contained therein under clause (a) of this Section 6.01) and (B) in the event that the Parent Borrower delivers to the Administrative Agent a Quarterly Report on Form 10-Q for any fiscal quarter (or similar filing in the applicable jurisdiction), as filed with the SEC or in such form as would have been suitable for filing with the SEC (or similar governing body in the applicable jurisdiction, in each case), within the time frames set forth in clause (b) above, such Form 10-Q shall satisfy all requirements of clause (b) of this Section with respect to such fiscal quarter to the extent that it contains the information required by such clause (b), and

(ii) any financial statements required to be delivered pursuant to Section 6.01(a) and 6.01(b) shall not be required to contain all purchase accounting adjustments relating to the Transactions or any other transactions permitted hereunder to the extent it is not practicable to include any such adjustments in such financial statements.

Section 6.02 Certificates; Other Information. Deliver to the Administrative Agent for further distribution to each Lender:

(a) [reserved];

(b) no later than five (5) days after the delivery of (i) the financial statements referred to in Sections 6.01(a) and (b), or (ii) an Annual Report on Form 10-K or a Quarterly Report on Form 10-Q (in either case, delivered pursuant to the last paragraph of Section 6.01), a duly completed Compliance Certificate signed by a Responsible Officer of the Parent Borrower (which delivery may, unless the Administrative Agent or a Lender requests executed originals, be by electronic communication including fax or email, in which case, such delivery shall be deemed to be an original authentic counterpart thereof for all purposes);

(c) promptly after the same are available, copies of all reports on Form 8-K, Form S-3 and Form S-4 (or any other forms that may be substituted therefor) which the Parent Borrower may file or be required to file with the SEC or with any Governmental Authority that may be substituted therefor, or with any national securities exchange, and in any case not otherwise required to be delivered to the Administrative Agent pursuant hereto; and

(d) promptly, such additional information regarding the business, legal, financial or corporate affairs of any Loan Party or any Restricted Subsidiary thereof as the Administrative Agent or any Lender through the Administrative Agent may from time to time reasonably request, subject, in all respects to any confidentiality and/or legal privilege, including any change in the information provided in the Beneficial Ownership Certification that would result in a change to the list of beneficial owners identified in such certification.

Documents required to be delivered pursuant to Section 6.01(a), (b) or (c) or Section 6.02(b) or (c) (or to the extent any such documents are included in materials otherwise filed with the SEC) may be delivered electronically and if so delivered, shall be deemed to have been delivered on the date on which such documents are posted on the Parent Borrower's behalf on the Platform or another internet or intranet website, if any, to which each Lender and the Administrative Agent have access (whether a commercial, third-party website or whether sponsored by the Administrative Agent, including the Parent Borrower's principal website address and the website of the SEC at <http://www.sec.gov> (or, in each case, any sub-domain thereof)); provided that the Parent Borrower shall notify (which may be by facsimile or electronic mail) the Administrative Agent of the posting of any such documents described in this paragraph and provide to the Administrative Agent by electronic mail electronic versions (i.e., soft copies) of such documents to the extent requested by the Administrative Agent. The Administrative Agent shall have no responsibility to monitor compliance by the Borrowers, and each Lender shall be solely responsible for timely accessing posted documents.

The Parent Borrower hereby acknowledges that (a) the Administrative Agent and/or the Arrangers will make available to the Lenders and the L/C Issuers materials and/or information provided by or on behalf of the Parent Borrower hereunder (collectively, "Borrower Materials") by posting the Borrower Materials on IntraLinks/IntraAgency, SyndTrak or another similar electronic system (the "Platform") and (b) certain of the Lenders (each, a "Public Lender") may have personnel who wish only to receive information that (i) is publicly available or (ii) is not material with respect to the Borrowers or their respective securities for purposes of applicable foreign, United States federal and state securities laws with respect to the Parent Borrower or its Affiliates, or the respective securities of any of the foregoing, and who may be engaged in investment and other market related activities with respect to such Persons' securities (as determined by the Parent Borrower in good faith) (such information, "Public Side Information"). The Parent Borrower hereby agrees that it will identify that portion of the Borrower Materials that may be distributed to the Public Lenders and that (w) all such Borrower Materials shall be clearly and conspicuously marked "PUBLIC SIDE" or "PUBLIC" which, at a minimum, shall mean that the word "PUBLIC SIDE" or "PUBLIC" shall appear prominently on the first page thereof; (x) by marking Borrower Materials "PUBLIC SIDE" or "PUBLIC", the Parent Borrower shall be deemed to have authorized the Administrative Agent, the Arrangers, the L/C Issuers and the Lenders to treat such Borrower Materials as only containing Public Side Information (provided, however, that to the extent such Borrower Materials constitute Information, they shall be treated as set forth in Section 10.08); (y) all Borrower Materials marked

“PUBLIC SIDE” or “PUBLIC” are permitted to be made available through a portion of the Platform designated “Public Side Information”; and (z) any Borrower Materials that are not marked “PUBLIC SIDE” or “PUBLIC” shall be deemed to contain material non-public information (within the meaning of United States federal and state securities laws) and shall not be suitable for posting on a portion of the Platform designated “Public Side Information.” Notwithstanding anything herein to the contrary, financial statements delivered pursuant to Sections 6.01(a) and (b), Compliance Certificates delivered pursuant to Section 6.02(b) (other than any such portion of a Compliance Certificate that may contain material non-public information, which information shall be redacted in the version posted to Public Side Lenders) and the list of Disqualified Institutions shall be deemed to be suitable for posting on a portion of the Platform designated “Public Side Information.”

Section 6.03 Notices. Promptly, after a Responsible Officer of any Borrower or any Guarantor has obtained knowledge thereof, notify the Administrative Agent:

(a) of the occurrence of any Default; provided that any Default for failure to provide a timely notice pursuant to this Section 6.03 shall be cured by delivery of such notice;

(b) [reserved];

(c) of the institution of any material litigation not previously disclosed by any Borrower to the Administrative Agent, or any material development in any material litigation that is reasonably likely to be adversely determined, and would, in either case, if adversely determined, be reasonably expected to have a Material Adverse Effect; and

(d) of the occurrence of any ERISA Event, where there is any reasonable likelihood of the imposition of liability on any Loan Party or any Grantor or any ERISA Affiliate as a result thereof that would be reasonably expected to have a Material Adverse Effect.

Each notice pursuant to this Section 6.03 shall be accompanied by a statement of a Responsible Officer of the Parent Borrower setting forth details of the occurrence referred to therein and stating what action the Borrowers have taken and propose to take with respect thereto.

Section 6.04 Payment of Taxes. Pay, discharge or otherwise satisfy as the same shall become due and payable, all Taxes (including in its capacity as withholding agent) imposed upon it or its income, profits, properties or other assets, unless the same are being contested in good faith by appropriate proceedings diligently conducted and adequate reserves in accordance with GAAP (or, with respect to any Non-U.S. Subsidiaries, in conformity with generally accepted accounting principles that are applicable in their respective jurisdiction of organization) are being maintained by a Borrower or such Restricted Subsidiary; except to the extent the failure to pay, discharge or satisfy the same would not reasonably be expected, individually or in the aggregate, to have a Material Adverse Effect.

Section 6.05 Preservation of Existence, Etc.

(a) Preserve, renew and maintain in full force and effect its legal existence under the Laws of the jurisdiction of its organization except in a transaction permitted by Section 7.03 or 7.04, (b) take all reasonable action to maintain all rights, privileges (including its good standing, if such concept is applicable in its jurisdiction of organization), permits, licenses and franchises necessary or desirable in the normal conduct of its business, except to the extent that failure to do so would not reasonably be expected to have a Material Adverse Effect or as otherwise permitted hereunder, and (c) use commercially reasonable efforts to preserve or renew all of its registered copyrights, patents, trademarks, trade names and service marks, the non-preservation of which would reasonably be expected to have a Material Adverse Effect or as otherwise permitted hereunder; provided that nothing in this Section 6.05 shall require the preservation,



renewal or maintenance of, or prevent the abandonment by, any Borrower or Restricted Subsidiary of any registered copyrights, patents, trademarks, trade names and service marks that such Borrower or Restricted Subsidiary reasonably determines is not useful to its business or no longer commercially desirable; provided, further, that nothing in this Section 6.05 shall prohibit any transaction permitted under Section 7.03 or 7.04.

Section 6.06 Maintenance of Properties: Ownership of Material Intellectual Property.

(a) Except if the failure to do so would not reasonably be expected to have, individually or in the aggregate, a Material Adverse Effect, maintain, preserve and protect all of its tangible properties and equipment that are necessary in the operation of its business in good working order, repair and condition, ordinary wear and tear excepted and casualty or condemnation excepted; provided that the foregoing shall not prohibit any transaction permitted under Section 7.04.

(b) Material Intellectual Property owned by a Loan Party as of the Spin-Off Date (or, if later, at the time such Person becomes a Loan Party pursuant to Sections 1.15, 4.01 or 6.12) shall at all times be owned solely by the Loan Parties; provided that Material Intellectual Property may be transferred, exclusively licensed or otherwise Disposed of to (or owned by) a Restricted Subsidiary that is not a Loan Party in the ordinary course of business or consistent with past practice in support of the business operation of the Parent Borrower and its Restricted Subsidiaries and not in furtherance of any third-party financing substantially contemporaneously incurred and secured by such Material Intellectual Property so transferred, exclusively licensed or Disposed.

Section 6.07 Maintenance of Insurance. Except if the failure to do so would not reasonably be expected to have a Material Adverse Effect, maintain in full force and effect, with insurance companies that the Parent Borrower believes (in the good faith judgment of the management of the Parent Borrower) are financially sound and responsible at the time the relevant coverage is placed or renewed, insurance in at least such amounts (after giving effect to any self-insurance which the Parent Borrower believes (in the good faith judgment of management of the Parent Borrower) is reasonable and prudent in light of the size and nature of its business) with such deductibles and covering such risks as are prudent in the reasonable business judgment of management of the Parent Borrower; provided that, notwithstanding the foregoing, in no event shall the Parent Borrower or any Restricted Subsidiary be required to obtain or maintain insurance that is more restrictive than its normal course of practice. Subject to Section 6.16, the Borrowers shall use commercially reasonable efforts to ensure that at all times the Collateral Agent, for the benefit of the Secured Parties, shall be named as an additional insured with respect to U.S. general liability policies (which, for the avoidance of doubt, shall not include any directors and officers policies, workers compensation, business interruption policies or cyber policies) maintained by the Borrowers and each Subsidiary Guarantor, and the Collateral Agent, for the benefit of the Secured Parties, shall be named as loss payee and mortgagee with respect to the U.S. general property insurance maintained by the Borrowers and each Subsidiary Guarantor; provided that, unless an Event of Default shall have occurred and be continuing and either the Administrative Agent shall have exercised its rights pursuant to Section 8.02 or is deemed to automatically have exercised its rights pursuant to Section 8.02, (a) all proceeds from insurance policies shall be paid to the Borrowers or the applicable Subsidiary Guarantor, (b) to the extent any Agent receives any proceeds, such Agent shall promptly turn over to the Borrowers any amounts received by it as an additional insured or loss payee under any insurance maintained by the Borrowers and their Subsidiaries, and (c) each Agent agrees that the Borrowers and/or their applicable Subsidiaries shall have the sole right to adjust or settle any claims under such insurance. Notwithstanding anything to the contrary herein, with respect to Non-U.S. Subsidiaries and Collateral located outside of the United States, the requirements of this Section 6.07 shall be deemed satisfied if the Parent Borrower obtains insurance policies that are customary and appropriate for the applicable jurisdiction and for the avoidance of doubt there shall be no obligation to ensure that the Collateral Agent or the Secured Parties are named as an additional insured or named as loss payee, or to deliver any certificates or endorsements with respect to any such policies.

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Section 6.08 Compliance with Laws. Comply with the requirements of all applicable Laws (including ERISA and the PATRIOT Act, Anti-Corruption Laws and Sanctions Laws and Regulations) and all orders, writs, injunctions and decrees of any Governmental Authority applicable to it or to its business or property, except if the failure to comply therewith, either individually or in the aggregate, would not reasonably be expected to have a Material Adverse Effect.

Section 6.09 Books and Records. Maintain proper books of record and account, in a manner to allow financial statements to be prepared in all material respects in conformity with GAAP in respect of all financial transactions and matters involving the assets and business of the Borrowers or, if applicable, the Parent Borrower or such Restricted Subsidiary, as the case may be (it being understood and agreed that Non-U.S. Subsidiaries may maintain individual books and records in conformity with generally accepted accounting principles that are applicable in their respective jurisdiction of organization).

Section 6.10 Inspection Rights. Permit representatives of the Administrative Agent to visit and inspect any of its properties (subject to the rights of lessees or sublessees thereof and subject to any restrictions or limitations in the applicable lease, sublease or other written occupancy arrangement pursuant to which such Borrower or such Restricted Subsidiary is a party), to examine its corporate, financial and operating records, and make copies thereof or abstracts therefrom, and to discuss its affairs, finances and accounts with its directors, managers and officers, all at the reasonable expense of the Borrowers and at such reasonable times during normal business hours, upon reasonable advance written notice to the Borrowers; provided that (a) only the Administrative Agent on behalf of the Lenders may exercise rights under this Section 6.10, (b) excluding any such visits and inspections during the continuation of an Event of Default, the Administrative Agent shall not exercise such rights more often than one (1) time during any calendar year and (c) such exercise shall be at the Borrowers' expense; provided, further, that when an Event of Default has occurred and is continuing, the Administrative Agent (or any of its respective representatives) may do any of the foregoing at the expense of the Borrowers at any time and from time to time during normal business hours and upon reasonable advance written notice. The Administrative Agent and the Lenders shall give the Borrowers the opportunity to participate in any discussions with the Borrowers' accountants. Notwithstanding anything to the contrary in this Section 6.10, none of the Borrowers nor any Restricted Subsidiary will be required to disclose or permit the inspection or discussion of, any document, information or other matter (i) that constitutes non-financial trade secrets or non-financial proprietary information, (ii) in respect of which disclosure to the Administrative Agent or any Lender (or their respective representatives or contractors) is prohibited by Law or any binding agreement or (iii) that is subject to attorney client or similar privilege or constitutes attorney work product.

Section 6.11 Use of Proceeds. The Borrowers will use the Letters of Credit and the proceeds of the Loans only as provided in Sections 5.07, 5.13(a), 5.19 and 5.20.

Section 6.12 Covenant to Guarantee Obligations and Give Security. Upon the formation or acquisition (including, without limitation, upon the formation of any Subsidiary that is a Divided LLC) of any new Wholly Owned Subsidiary by any Loan Party or new Korean Subsidiary by any Grantor (provided that each of (x) any Subsidiary Redesignation resulting in an Unrestricted Subsidiary becoming a Restricted Subsidiary and (y) any Excluded Subsidiary ceasing to be an Excluded Subsidiary but remaining a Restricted Subsidiary shall be deemed to constitute the acquisition of a Restricted Subsidiary for all purposes of this Section 6.12), and upon the acquisition of any property (other than Excluded Property) by any Loan Party or any Equity Interest in a Korean Subsidiary (other than Excluded Property) by any Loan Party or Grantor (including any Restricted Subsidiary that becomes a Grantor as a result of acquiring such Equity Interests) which property or Equity Interest, in the reasonable judgment of the Administrative Agent,

is not already subject to a perfected Lien in favor of the Collateral Agent for the benefit of the Secured Parties (and where such a perfected Lien would be required in accordance with the terms of the Collateral Documents or other Loan Documents), the Borrowers shall, at the Borrowers' expense but, in each case, subject to the Perfection Exceptions, the terms and conditions of the Collateral Documents (including any deadlines therein) and, in the case of any Loan Party that is a Non-U.S. Subsidiary or any Equity Interest in a Korean Subsidiary, the Agreed Security Principles:

(a) in connection with the formation or acquisition of a Subsidiary, within 120 days after such formation or acquisition or, in each case, such longer period as the Collateral Agent may agree in its reasonable discretion, (i) cause each such Subsidiary that is not an Excluded Subsidiary to duly execute and deliver to the Collateral Agent a guaranty or guaranty supplement, in form and substance reasonably satisfactory to the Collateral Agent, guaranteeing the Obligations and a joinder or supplement to the applicable Collateral Documents (or, as applicable, execute and deliver new Collateral Documents) and (ii) to the extent applicable and not already so delivered (including with respect to Equity Interest in any Korean Subsidiary required to be pledged hereunder), deliver certificates (or the foreign equivalent thereof, as applicable) representing the Pledged Interests of each such Subsidiary (if any) (other than any Unrestricted Subsidiary) held by the applicable Loan Party or Grantor accompanied by undated stock powers or other appropriate instruments of transfer executed in blank and instruments evidencing the Pledged Debt owing by such Subsidiary to any Loan Party indorsed in blank to the Collateral Agent, together with, if requested by the Collateral Agent, supplements to the applicable Security Agreement (or, as applicable, new Collateral Documents); provided that any Excluded Property shall not be required to be pledged as Collateral,

(b) within 120 days after the acquisition of any such property (including, for the avoidance of doubt, by way of formation or acquisition of a Subsidiary) (or, in each case, such longer period, as the Collateral Agent may agree in its reasonable discretion) duly execute and deliver, and cause each Loan Party or Grantor (solely to the extent required to pledge any Equity Interests in a Korean Subsidiary and including any Restricted Subsidiary that becomes a Grantor as a result of acquiring such Equity Interests) to duly execute and deliver (subject, in the case of any Loan Party that is a Non-U.S. Subsidiary or the pledge of Equity Interests in any Korean Subsidiary, to the Agreed Security Principles) to the Collateral Agent one or more Security Agreement Supplements, Intellectual Property Security Agreement Supplements, Collateral Documents as specified by and in form and substance reasonably satisfactory to the Collateral Agent (consistent, to the extent applicable, with the applicable Security Agreement, the Intellectual Property Security Agreement and the other Collateral Documents), securing payment of all the Secured Obligations of the applicable Loan Party or such Grantor, as the case may be, under the Loan Documents and establishing Liens on all such properties or property; provided that such properties or property shall not be required to be pledged as Collateral, and no Security Agreement Supplements, Intellectual Property Security Agreement Supplements shall be required to be delivered in respect thereof, to the extent that any such properties or property constitute Excluded Property,

(c) [reserved],

(d) within 120 days after the reasonable request of the Collateral Agent (or such longer period as the Collateral Agent may agree in its reasonable discretion) deliver to the Collateral Agent, Organization Documents, resolutions and a signed copy of one or more customary opinions, addressed to the Collateral Agent and the other Secured Parties, of counsel for the Loan Parties or, if applicable, counsel for the pledged Korean Subsidiaries (or the Collateral Agent, as applicable) reasonably acceptable to the Collateral Agent (provided that no opinions with respect to laws of any jurisdiction that is not a Covered Jurisdiction shall be required), and

(e) at any time and from time to time, promptly execute and deliver any and all further instruments and documents and take all such other action as the Collateral Agent in its reasonable judgment may deem necessary or desirable in obtaining the full benefits of, or in perfecting and preserving the Liens of, such guaranties, Security Agreement Supplements, Intellectual Property Security Agreement Supplements, Collateral Documents and security agreements, in each case, with respect to guaranteeing and/or securing Obligations consistent with the terms hereof, in each case subject to the Perfection Exceptions and, in the case of any Loan Party that is a Non-U.S. Subsidiary or any pledge of the Equity Interests in a Korean Subsidiary, the Agreed Security Principles.

Notwithstanding anything to the contrary herein, the Borrower Representative may elect to cause any Restricted Subsidiary that is not otherwise required to be a Subsidiary Guarantor to provide a Guarantee of the Obligations by causing such Restricted Subsidiary to execute a joinder to the Guaranty and each applicable Collateral Document in substantially the form attached as an exhibit thereto, and any such Restricted Subsidiary shall be a Loan Party and Subsidiary Guarantor for all purposes hereunder; provided that (i) the jurisdiction of incorporation of any Non-U.S. Subsidiary shall be reasonably satisfactory to the Administrative Agent in light of legal permissibility and the policies and procedures of the Administrative Agent and the Lenders for similarly situated companies (as reasonably determined by the Administrative Agent) and (ii) any subsequent release of any such Restricted Subsidiary from its obligations as a Guarantor on the basis of such Restricted Subsidiary being an Excluded Subsidiary shall be subject to such Restricted Subsidiary having capacity to Incur then-existing Indebtedness and Liens of such Restricted Subsidiary once it is no longer a Guarantor (as determined at the time of such release). Notwithstanding anything to the contrary herein, the Administrative Agent may make exceptions and waive compliance with any requirement under this Section 6.12 if and to the extent the Borrowers and the Administrative Agent reasonably agree that the cost associated with such compliance would be excessive in relation to the value afforded thereby to the Secured Parties.

Section 6.13 Compliance with Environmental Laws. Except, in each case, to the extent that the failure to do so would not reasonably be expected to have a Material Adverse Effect, comply, and use commercially reasonable efforts to cause all lessees and other Persons operating or occupying its properties to comply, with all Environmental Laws and Environmental Permits; obtain, maintain and renew all applicable Environmental Permits necessary for its operations and properties; and, to the extent required under Environmental Laws, conduct any investigation, mitigation, study, sampling and testing, and undertake any cleanup, removal or remedial, corrective or other action necessary to respond to and remove and clean up all Hazardous Materials from any of its properties, in accordance with the requirements of all Environmental Laws; provided, however, that no Borrower or any Restricted Subsidiary shall be required to undertake any such cleanup, removal, remedial, corrective or other action to the extent that its obligation to do so is being contested in good faith and by proper proceedings and appropriate reserves are being maintained with respect to such circumstances in accordance with GAAP.

Section 6.14 Further Assurances. Promptly upon request by the Administrative Agent, or the Collateral Agent or any Lender through the Administrative Agent, and subject to the limitations described in Section 6.12, (a) correct any material defect or error that may be discovered in any Loan Document or other document or instrument relating to any Collateral or in the execution, acknowledgment, filing or recordation thereof and (b) do, execute, acknowledge, deliver, record, re-record, file, re-file, register and re-register any and all such further acts, deeds, certificates, assurances and other instruments as the Administrative Agent, or the Collateral Agent or any Lender through the Administrative Agent, may reasonably require from time to time in order to grant, preserve, protect and continue the validity, perfection and priority of the security interests created or intended to be created by the Collateral Documents.

Section 6.15 Maintenance of Ratings. Use commercially reasonable efforts to obtain and maintain (but not obtain or maintain a specific rating) the following: (a) a public corporate family rating of the Parent Borrower and a rating of the outstanding Term Facilities, in each case from Moody's and (b) a public corporate credit rating of the Parent Borrower and a rating of the outstanding Term Facilities, in each case from S&P (it being understood and agreed that "commercially reasonable efforts" shall in any event include the payment by the Parent Borrower of customary rating agency fees and cooperation with customary information and data requests by Moody's and S&P, as applicable, in connection with their ratings process).

Section 6.16 Post-Closing Undertakings. Within the time periods specified on Schedule 6.16 hereto (as each may be extended by the Administrative Agent in its reasonable discretion), provide such Collateral Documents and complete such undertakings as set forth on Schedule 6.16 hereto.

## ARTICLE VII

### NEGATIVE COVENANTS

From and after the Closing Date until the Date of Full Satisfaction, the Borrowers shall not, nor shall they permit any other Restricted Subsidiary to, directly or indirectly:

#### Section 7.01 Indebtedness.

(a) Incur any Indebtedness (including Acquired Indebtedness) or issue any shares of Disqualified Stock, and the Parent Borrower will not permit any of its Restricted Subsidiaries to issue any shares of Preferred Stock; provided, however, that the Parent Borrower and any Restricted Subsidiary may incur Indebtedness (including Acquired Indebtedness) or issue shares of Disqualified Stock and any Restricted Subsidiary may issue shares of Preferred Stock, in each case so long as (i) the Maximum Leverage Requirement is satisfied for the Parent Borrower and its Restricted Subsidiaries as of the date on which such additional Indebtedness is Incurred or such Disqualified Stock or Preferred Stock is issued and (ii) such additional Indebtedness, such Disqualified Stock or Preferred Stock, to the extent Incurred by a Loan Party and for the avoidance of doubt subject to clause (B) of the following proviso, satisfies the requirements set forth in Section 2.15(b)(i) through (vii) as if the references therein to "Incremental Equivalent Debt" were to such additional Indebtedness, Disqualified Stock or Preferred Stock (any such Indebtedness, Disqualified Stock or Preferred Stock collectively, "Ratio Debt"); provided that the aggregate principal amount of Ratio Debt and Acquisition Ratio Debt that either (A) is Incurred by Restricted Subsidiaries that are not Loan Parties, or (B) does not satisfy the requirements set forth in Section 2.15(b)(i) and (ii), together with the aggregate principal amount of Indebtedness Incurred under clause (t) of the definition of "Permitted Debt", shall not exceed in the aggregate the greater of (x) \$650,000,000 and (y) 50% of the EBITDA Grower Amount (the "Non-Guarantor Debt Sublimit") at any one time outstanding.

The foregoing limitations will not apply to (collectively, "Permitted Debt");

(a) (x) Indebtedness arising under the Loan Documents, including any refinancing thereof in accordance with Section 2.18, (y) Indebtedness of the Loan Parties evidenced by Refinancing Notes and any Permitted Refinancing thereof (or successive Permitted Refinancings thereof) and (z) Indebtedness of the Loan Parties evidenced by Incremental Equivalent Debt and any Permitted Refinancing thereof (or successive Permitted Refinancings thereof);

(b) Indebtedness Incurred by the Parent Borrower or any of its Restricted Subsidiaries in connection with any Sale/Leaseback Transactions not to exceed the greater of (x) \$360,000,000 and (y) 27.5% of the EBITDA Grower Amount (the "Sale/Leaseback Basket"); provided that, for the avoidance of doubt, any Sale/Leaseback Transactions not made in reliance of the Sale/Leaseback Basket shall be permitted subject to the terms of Section 2.05(b)(ii) and Section 7.04, in each case without giving effect to (i) the application of sections (B) or (C) in the proviso to Section 2.05(b)(ii) and (ii) any reinvestment rights pursuant to Section 7.04(b);

(c) Indebtedness and Disqualified Stock of the Parent Borrower and its Restricted Subsidiaries and Preferred Stock of the Restricted Subsidiaries existing on the Closing Date (excluding Indebtedness described in clause (a) above) and, to the extent in an outstanding individual principal amount in excess of \$15,000,000, listed on Schedule 7.01 and, for the avoidance of doubt, all Capitalized Lease Obligations existing on the Closing Date (whether or not listed on Schedule 7.01) and Permitted Refinancings thereof;

(d) Indebtedness (including Capitalized Lease Obligations and mortgage financings as purchase money obligations) Incurred by the Parent Borrower or any of its Restricted Subsidiaries, Disqualified Stock issued by the Parent Borrower or any of its Restricted Subsidiaries and Preferred Stock issued by any Restricted Subsidiaries to finance all or any part of the purchase, lease, construction, installation, repair or improvement of property (real or personal), plant or equipment or other fixed or capital assets (whether through the direct purchase of assets or the Capital Stock of any Person owning such assets) and Indebtedness, Disqualified Stock or Preferred Stock arising from the conversion of the obligations of the Parent Borrower or any Restricted Subsidiary under or pursuant to any “synthetic lease” transactions to on-balance sheet Indebtedness of the Parent Borrower or such Restricted Subsidiary, in an aggregate principal amount or liquidation preference, including all Indebtedness Incurred and Disqualified Stock or Preferred Stock issued to renew, refund, refinance, replace, defease or discharge any Indebtedness Incurred or Disqualified Stock or Preferred Stock issued pursuant to this clause (d), not to exceed the greater of (x) \$360,000,000 and (y) 27.5% of the EBITDA Grower Amount, at any one time outstanding, *plus*, in the case of any refinancing of any Indebtedness, Disqualified Stock or Preferred Stock permitted under this clause (d) or any portion thereof, any Refinancing Expenses; provided that Capitalized Lease Obligations Incurred by Parent Borrower or any Restricted Subsidiary pursuant to this clause (d) in connection with a Sale/Leaseback Transaction shall not be subject to the foregoing limitation so long as the proceeds of such Sale/Leaseback Transaction are applied in accordance with the proviso of clause (b) of the definition of “Permitted Debt” (it being understood that any Indebtedness Incurred or Disqualified Stock or Preferred Stock issued pursuant to this clause (d) shall cease to be deemed Incurred, issued or outstanding pursuant to this clause (d) but shall be deemed Incurred or issued and outstanding as Ratio Debt from and after the first date on which the Parent Borrower or such Restricted Subsidiary, as the case may be, could have Incurred such Indebtedness or issued such Disqualified Stock or Preferred Stock as Ratio Debt (to the extent the Parent Borrower or any of its Restricted Subsidiaries are able to Incur any Liens related thereto as Permitted Liens after such reclassification));

(e) Indebtedness Incurred or Disqualified Stock issued by the Parent Borrower or any of its Restricted Subsidiaries and Preferred Stock issued by any Restricted Subsidiaries constituting reimbursement obligations with respect to letters of credit (including trade letters of credit) or bank guarantees or similar instruments issued in the ordinary course of business or consistent with past practice, including (i) guarantees or obligations with respect to letters of credit or performance or surety bonds in respect of workers’ compensation claims, health, disability or other employee benefits (whether current or former) or property, casualty or liability insurance or self-insurance, or other Indebtedness with respect to reimbursement-type obligations regarding workers’ compensation claims, health, disability or other employee benefits (whether current or former) or property, casualty or liability insurance and (ii) guarantees of Indebtedness Incurred by customers in connection with the purchase or other acquisition of equipment or supplies in the ordinary course of business or consistent with past practice;

(f) Incurrence of Indebtedness, Disqualified Stock or Preferred Stock arising from agreements of the Parent Borrower or its Restricted Subsidiaries providing for indemnification, earn-outs, adjustment of purchase or acquisition price or similar obligations or from guaranties, surety bonds, bid bonds or performance bonds securing the performance of the Parent Borrower or any of its Restricted Subsidiaries pursuant to such agreements, in each case, Incurred in connection with the Transactions or with the acquisition or disposition of any business, assets or a Subsidiary of the Parent Borrower in accordance with this Agreement, other than guarantees of Indebtedness Incurred or Disqualified Stock or Preferred Stock issued by any Person acquiring all or any portion of such business, assets or Subsidiary for the purpose of financing such acquisition;

(g) [reserved];

(h) secured Indebtedness, in an aggregate principal amount not to exceed the greater of (x) \$130,000,000 and (y) 10% of the EBITDA Grower Amount at any one time outstanding, so long as such Indebtedness is secured by a Lien on assets that do not constitute Collateral and Permitted Refinancings thereof;

(i) Indebtedness, Disqualified Stock or Preferred Stock of a Restricted Subsidiary or the Parent Borrower owing to the Parent Borrower or another Restricted Subsidiary; provided that (x)(i) if the Parent Borrower or a Loan Party Incurs such Indebtedness, Disqualified Stock or Preferred Stock owing to a Non-Loan Party, such Indebtedness, Disqualified Stock or Preferred Stock is subordinated in right of payment to the Parent Borrower's Obligations or Guarantee of such Loan Party, as applicable, pursuant to the Intercompany Subordination Agreement and (ii) any subsequent issuance or transfer of any Capital Stock or any other event that results in any Restricted Subsidiary lending such Indebtedness, Disqualified Stock or Preferred Stock ceasing to be a Restricted Subsidiary or any other subsequent transfer of any such Indebtedness, Disqualified Stock or Preferred Stock (except to the Parent Borrower or another Restricted Subsidiary) shall be deemed, in each case, to be an Incurrence of such Indebtedness, Disqualified Stock or Preferred Stock not permitted by this clause (i), and (y) Indebtedness of any Restricted Subsidiary that is not a Loan Party owing to any Loan Party under this clause (i) shall be subject to, and shall comply with, the proviso set forth in clause (2) of the definition of "Permitted Investments" or Section 7.05(b)(xxi);

(j) Swap Contracts and Cash Management Services Incurred (including in connection with any Qualified Receivables Financing), other than for speculative purposes;

(k) obligations (including reimbursement obligations with respect to letters of credit or bank guarantees or similar instruments) in respect of customs, self-insurance, performance, bid, appeal and surety bonds and completion guarantees and similar obligations provided by the Parent Borrower or any Restricted Subsidiary;

(l) Indebtedness or Disqualified Stock of the Parent Borrower or any of its Restricted Subsidiaries and Preferred Stock of any of its Restricted Subsidiaries in an aggregate principal amount or liquidation preference that, when aggregated with the principal amount or liquidation preference of all other Indebtedness, Disqualified Stock and Preferred Stock then outstanding and Incurred pursuant to this clause (l), does not exceed the greater of (x) \$650,000,000 and (y) 50% of the EBITDA Grower Amount, at any one time outstanding, *plus*, in the case of any refinancing of any Indebtedness, Disqualified Stock or Preferred Stock permitted under this clause (l) or any portion thereof, any Refinancing Expenses (it being understood that any Indebtedness Incurred or Disqualified Stock or Preferred Stock issued pursuant to this clause (l) shall cease to be deemed Incurred, issued or outstanding pursuant to this clause (l) but shall be deemed Incurred or

issued and outstanding as Ratio Debt from and after the first date on which the Parent Borrower or such Restricted Subsidiary, as the case may be, could have Incurred such Indebtedness or issued such Disqualified Stock or Preferred Stock as Ratio Debt (to the extent the Parent Borrower or any of its Restricted Subsidiaries are able to Incur any Liens related thereto as Permitted Liens after such reclassification));

(m) any guarantee by the Parent Borrower or a Restricted Subsidiary of Indebtedness, Disqualified Stock, Preferred Stock or other obligations of the Parent Borrower or any of its Restricted Subsidiaries so long as the Incurrence of such Indebtedness, Disqualified Stock, Preferred Stock or other obligations by the Parent Borrower or such Restricted Subsidiary, and in the case of a guarantee by a Loan Party, any related Investment, is permitted under the terms of this Agreement;

(n) the Incurrence by the Parent Borrower or any of its Restricted Subsidiaries of Indebtedness or Disqualified Stock or the issuance of Preferred Stock of a Restricted Subsidiary that serves to refund, refinance, replace, redeem, repurchase, retire or defease, and is in an aggregate principal amount (or if issued with original issue discount an aggregate issue price) that is equal to or less than, Indebtedness incurred or Disqualified Stock or Preferred Stock issued as Ratio Debt or permitted under clause (b), clause (c), clause (d), clause (l), this clause (n), clause (o), clause (r), clause (t), clause (cc), clause (dd), clause (gg) or clause (mm) of this Section 7.01 (provided that any amounts incurred under this clause (n) as Refinancing Indebtedness in respect of Indebtedness Incurred pursuant to any of the foregoing clauses shall reduce the amount available under such clauses so long as such Refinancing Indebtedness remains outstanding or any Indebtedness Incurred or Disqualified Stock or Preferred Stock issued to so refund, replace, refinance, redeem, repurchase, retire or defease such Indebtedness, Disqualified Stock or Preferred Stock), *plus* any Refinancing Expenses and any committed or undrawn amounts with respect to such Indebtedness, Disqualified Stock or Preferred Stock (subject to the following proviso, "Refinancing Indebtedness"); provided, however, that such Refinancing Indebtedness:

(A) has a Weighted Average Life to Maturity at the time such Refinancing Indebtedness is Incurred that is not less than the remaining Weighted Average Life to Maturity of the Indebtedness, Disqualified Stock or Preferred Stock being refunded, refinanced, replaced, redeemed, repurchased or retired (which (1) in the case of bridge loans or Extendable Bridge Loans/Interim Debt, will be determined by reference to the notes or loans into which such bridge loans or Extendable Bridge Loans/Interim Debt are converted or for which such bridge loans or Extendable Bridge Loans/Interim Debt are exchanged at maturity and (2) will be subject to other customary offers to repurchase or mandatory prepayments upon a change of control (or, with respect to convertible notes, fundamental change offers), asset sale or event of loss and customary acceleration rights after an event of default and, with respect to convertible notes, pursuant to settlements upon conversion);

(B) has a Stated Maturity that is no earlier than the Stated Maturity of the Indebtedness being refunded, refinanced, replaced, redeemed, repurchased or retired (which (1) in the case of bridge loans or Extendable Bridge Loans/Interim Debt, will be determined by reference to the notes or loans into which such bridge loans or Extendable Bridge Loans/Interim Debt are converted or for which such bridge loans or Extendable Bridge Loans/Interim Debt are exchanged at maturity and (2) will be subject to other customary offers to repurchase or mandatory prepayments upon a change of control, asset sale or event of loss and customary acceleration rights after an event of default);



(C) to the extent that such Refinancing Indebtedness refinances (1) Subordinated Indebtedness, such Refinancing Indebtedness is Subordinated Indebtedness or (2) Disqualified Stock or Preferred Stock, such Refinancing Indebtedness is Disqualified Stock or Preferred Stock, respectively;

(D) shall not include (x) Indebtedness, Disqualified Stock or Preferred Stock of a Non-Loan Party that refinances Indebtedness, Disqualified Stock or Preferred Stock of a Borrower or a Guarantor, or (y) Indebtedness or Disqualified Stock of a Borrower or Indebtedness, Disqualified Stock or Preferred Stock of a Restricted Subsidiary that refinances Indebtedness, Disqualified Stock or Preferred Stock of an Unrestricted Subsidiary; and

(E) to the extent such Refinancing Indebtedness is secured, the Liens securing such Refinancing Indebtedness have a Lien priority equal to or junior to the Indebtedness being refunded, refinanced, replaced, redeemed, repurchased or retired;

provided that subclauses (A) and (B) will not apply to any refunding or refinancing of any secured Indebtedness other than Ratio Debt, Acquisition Ratio Debt or any successive Refinancing Indebtedness in each case thereof or Indebtedness otherwise secured by assets constituting Collateral;

(o) (1) Indebtedness, Disqualified Stock or Preferred Stock (x) of the Parent Borrower or any of its Restricted Subsidiaries Incurred or assumed in connection with an acquisition of any assets (including Capital Stock), business or Person and (y) of any Person that is acquired by the Parent Borrower or any of its Restricted Subsidiaries or merged into or consolidated or amalgamated with the Parent Borrower or a Restricted Subsidiary in accordance with the terms of this Agreement and (2) Indebtedness Incurred or Disqualified Stock or Preferred Stock issued or, in each case, assumed in anticipation of, or in connection with, an acquisition of any assets, business (including Capital Stock) or Person or any similar Investment (any such Indebtedness, Disqualified Stock or Preferred Stock collectively, "Acquisition Ratio Debt"), in each case so long as (i) after giving Pro Forma Effect to such acquisition, merger, consolidation or amalgamation and the Incurrence of such Indebtedness, Disqualified Stock or Preferred Stock, the Maximum Leverage Requirement is satisfied for the Parent Borrower and its Restricted Subsidiaries as of the date on which such additional Indebtedness is Incurred or such Disqualified Stock or Preferred Stock is issued and (ii) such additional Indebtedness, Disqualified Stock or Preferred Stock, to the extent Incurred by a Loan Party, complies with the requirements set forth in Section 2.15(b)(i) through (vii) as if the references therein to Incremental Equivalent Debt were to such additional Indebtedness, Disqualified Stock or Preferred Stock; provided that the aggregate principal amount of Acquisition Ratio Debt and Ratio Debt either (A) Incurred by Restricted Subsidiaries that are not Loan Parties or (B) that does not satisfy the requirements set forth in Section 2.15(b)(i) and (ii), together with the aggregate principal amount of Indebtedness Incurred under clause (t) of the definition of "Permitted Debt", shall not exceed in the aggregate the Non-Guarantor Debt Sublimit;

(p) Indebtedness, Disqualified Stock or Preferred Stock of the Parent Borrower or any of its Restricted Subsidiaries arising from the honoring by a bank or other financial institution of a check, draft or similar instrument drawn against insufficient funds in the ordinary course of business;

(q) Indebtedness, Disqualified Stock or Preferred Stock of the Parent Borrower or any Restricted Subsidiary supported by a letter of credit or bank guarantee issued pursuant to any credit facility permitted hereunder, so long as such letter of credit has not been terminated and is in a principal amount not in excess of the stated amount of such letter of credit or bank guarantee;

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(r) Contribution Indebtedness;

(s) Indebtedness, Disqualified Stock or Preferred Stock of the Parent Borrower or any Restricted Subsidiary consisting of (x) installment insurance premiums, (y) the financing of insurance premiums or (z) take-or-pay obligations contained in supply arrangements, in each case, in the ordinary course of business or consistent with past practice;

(t) Indebtedness, Disqualified Stock or Preferred Stock of Non-Loan Parties in an aggregate principal amount or liquidation preference, as applicable, not to exceed, together with the aggregate principal amount of Ratio Debt and Acquisition Ratio Debt that is either (i) Incurred by Restricted Subsidiaries that are not Loan Parties or (ii) that does not satisfy the requirements set forth in Sections 2.15(b)(i) and (ii), in the aggregate, the greater of the Non-Guarantor Debt Sublimit, at any one time outstanding, *plus*, in the case of any refinancing of any Indebtedness, Disqualified Stock or Preferred Stock permitted under this clause (t) or any portion thereof, any Refinancing Expenses (it being understood that any Indebtedness Incurred or Disqualified Stock or Preferred Stock issued pursuant to this clause (t) shall cease to be deemed Incurred, issued or outstanding pursuant to this clause (t) but shall be deemed Incurred or issued and outstanding as Ratio Debt from and after the first date on which such Non-Loan Party could have Incurred such Indebtedness or issued such Disqualified Stock or Preferred Stock as Ratio Debt (to the extent such Non-Loan Party is able to Incur any Liens related thereto as Permitted Liens after such reclassification));

(u) Indebtedness, Disqualified Stock or Preferred Stock of a joint venture to the Parent Borrower or a Restricted Subsidiary and to the other holders of Equity Interests or participants of such joint venture, so long as the percentage of the aggregate amount of such Indebtedness, Disqualified Stock or Preferred Stock of such joint venture owed to such holders of its Equity Interests or participants of such joint venture does not exceed the percentage of the aggregate outstanding amount of the Equity Interests of such joint venture held by such holders or such participant's participation in such joint venture;

(v) Indebtedness Incurred or Disqualified Stock or Preferred Stock issued in a Qualified Receivables Financing or Qualified Receivables Factoring that is not recourse to Parent Borrower or any Restricted Subsidiary (except for Standard Securitization Undertakings) other than (x) a Receivables Subsidiary or (y) a Person described in the definition of "Factoring Transaction";

(w) Indebtedness owed or Disqualified Stock or Preferred Stock issued on a short-term basis to banks and other financial institutions in the ordinary course of business of the Parent Borrower and the Restricted Subsidiaries with such banks or financial institutions that arises in connection with (x) Supply Chain Finance or (y) ordinary banking arrangements, including cash management, cash pooling arrangements and related activities to manage cash balances of the Parent Borrower and its Subsidiaries and joint ventures including treasury, depository, overdraft, credit, purchasing or debit card, electronic funds transfer and other cash management arrangements and Indebtedness in respect of netting services, overdraft protection, credit card programs, automatic clearinghouse arrangements and similar arrangements;

(x) Indebtedness, Disqualified Stock or Preferred Stock consisting of Indebtedness, Disqualified Stock or Preferred Stock issued by the Parent Borrower or any Restricted Subsidiary to future, current or former officers, directors, managers, employees, consultants and independent contractors thereof or any direct or indirect parent thereof, their respective estates, heirs, family members, spouses or former spouses, in each case to finance the purchase or redemption of Equity Interests of the Parent Borrower to the extent permitted under Section 7.05;

(y) customer deposits and advance payments received in the ordinary course of business from customers for goods purchased in the ordinary course of business;

(z) Indebtedness Incurred or Disqualified Stock issued by the Parent Borrower or a Restricted Subsidiary or Preferred Stock issued by any of the Parent Borrower's Restricted Subsidiaries in connection with bankers' acceptances, discounted bills of exchange, warehouse receipts or similar facilities or the discounting or factoring of receivables for credit management purposes, in each case Incurred or undertaken in the ordinary course of business;

(aa) [reserved];

(bb) (i) guarantees Incurred in the ordinary course of business in respect of obligations to suppliers, customers, franchisees, lessors, licensees, sub-licensees and distribution partners and (ii) Indebtedness Incurred by the Parent Borrower or a Restricted Subsidiary as a result of leases entered into by the Parent Borrower or such Restricted Subsidiary in the ordinary course of business;

(cc) the incurrence by the Parent Borrower or any Restricted Subsidiary of Indebtedness Incurred or Disqualified Stock or Preferred Stock issued on behalf, or representing guarantees of Indebtedness incurred or Disqualified Stock or Preferred Stock issued by, joint ventures; provided that the aggregate principal amount or liquidation preference, as applicable, of Indebtedness Incurred or guaranteed or Disqualified Stock or Preferred Stock issued or guaranteed pursuant to this clause (cc) does not at any one time outstanding exceed the greater of (x) \$195,000,000 and (y) 15% of the EBITDA Grower Amount at any one time outstanding, *plus*, in the case of any refinancing of any Indebtedness, Disqualified Stock or Preferred Stock permitted under this clause (cc) or any portion thereof, any Refinancing Expenses (it being understood that any Indebtedness Incurred or Disqualified Stock or Preferred Stock issued pursuant to this clause (cc) shall cease to be deemed Incurred, issued or outstanding pursuant to this clause (cc) but shall be deemed Incurred or issued and outstanding as Ratio Debt from and after the first date on which the Parent Borrower or such Restricted Subsidiary could have Incurred or guaranteed such Indebtedness or issued or guaranteed such Disqualified Stock or Preferred Stock as Ratio Debt (to the extent the Parent Borrower or any of its Restricted Subsidiaries are able to Incur any Liens related thereto as Permitted Liens after such reclassification));

(dd) Indebtedness, Disqualified Stock or Preferred Stock of the Parent Borrower or a Restricted Subsidiary Incurred to finance or assumed in connection with an acquisition of any assets (including Capital Stock), business or Person in an aggregate principal amount or liquidation preference that does not exceed the greater of (x) \$360,000,000 and (y) 27.5% of the EBITDA Grower Amount, at any one time outstanding, *plus*, in the case of any refinancing of any Indebtedness, Disqualified Stock or Preferred Stock permitted under this clause (dd) or any portion thereof, any Refinancing Expenses (it being understood that any Indebtedness Incurred or Disqualified Stock or Preferred Stock issued pursuant to this clause (dd) shall cease to be deemed Incurred, issued or outstanding pursuant to this clause (dd) but shall be deemed Incurred or issued and outstanding as Ratio Debt from and after the first date on which the Parent Borrower or such Restricted Subsidiary, as the case may be, could have Incurred such Indebtedness or issued such Disqualified Stock or Preferred Stock as Ratio Debt (to the extent the Parent Borrower or any of its Restricted Subsidiaries are able to Incur any Liens related thereto as Permitted Liens after such reclassification));

(ee) Indebtedness, Disqualified Stock or Preferred Stock consisting of obligations of the Parent Borrower or any Restricted Subsidiary under deferred compensation, severance, pension, and health and welfare retirement benefits or other similar arrangements of the Borrower Parties incurred or established by such Person in the exercise of the Parent Borrower's reasonable business judgment or existing on the Closing Date;

(ff) unfunded pension fund and other employee benefit plan obligations and liabilities to the extent that they are permitted to remain unfunded under applicable law;

(gg) the Senior Notes and any Permitted Refinancing thereof;

(hh) unsecured Indebtedness among the Borrower Parties Incurred in connection with Permitted Restructuring Transactions;

(ii) reimbursement obligations of the Borrower Parties with respect to cash management arrangements referred to in clause (49) of the definition of Permitted Liens;

(jj) unsecured Indebtedness arising out of judgments not constituting an Event of Default;

(kk) Indebtedness under any bilateral letter of credit facility in an aggregate principal amount not exceeding \$50,000,000 at any time outstanding;

(ll) Guarantees of Indebtedness of employees, directors, officers, managers, consultants or independent contractors permitted by clause (7) of the definition of Permitted Investments; and

(mm) Indebtedness Incurred outside of this Agreement consisting of letters of credit, bank guarantees and foreign lines of credit in an aggregate principal amount at any time outstanding not to exceed the greater of (x) \$360,000,000 and (y) 27.5% of the EBITDA Grower Amount, at any one time outstanding.

Notwithstanding anything to the contrary, any Indebtedness, Disqualified Stock or Preferred Stock of a Loan Party owing to a Non-Loan Party shall be subordinated in right of payment to the Obligations pursuant to the Intercompany Subordination Agreement.

(b) For purposes of determining compliance with this Section 7.01, in the event that an item of Indebtedness, Disqualified Stock or Preferred Stock (or any portion thereof) meets the criteria of more than one of the categories of Permitted Debt or is entitled to be Incurred or issued as Ratio Debt, the Parent Borrower shall, in its sole discretion, at the time of incurrence or issuance, divide, classify or reclassify, or at any later time divide, classify or reclassify, such item of Indebtedness, Disqualified Stock or Preferred Stock (or any portion thereof) in any manner that complies with this Section 7.01; provided that (i) all Indebtedness under this Agreement incurred on the Closing Date shall be deemed to have been Incurred pursuant to clause (a) of the definition of "Permitted Debt" and the Parent Borrower shall not be permitted to reclassify all or any portion of Indebtedness Incurred on the Closing Date pursuant to clause (a) of the definition of "Permitted Debt" and (ii) in the event that the Parent Borrower shall classify Indebtedness Incurred on the date of determination as Incurred in part as Ratio Debt or Acquisition Ratio Debt or as having been incurred in reliance on any Ratio-Based Incremental Facility test and in part pursuant to one or more other clauses of Section 7.01, Consolidated Funded Indebtedness shall not include any such Indebtedness Incurred pursuant to one or more such other clauses of Section 7.01, and shall not give effect to any discharge of any Indebtedness from the proceeds of any such Indebtedness being disregarded for purposes of the calculation of the Consolidated Funded Indebtedness on such date of determination that otherwise would be included in Consolidated Funded Indebtedness. Accrual of interest or dividends, the accretion of accreted value, the accretion or amortization of original issue discount, the payment of interest or dividends in the form of additional Indebtedness with the same terms, the payment of dividends on

Disqualified Stock or Preferred Stock in the form of additional shares of Disqualified Stock or Preferred Stock of the same class, the accretion of liquidation preference and increases in the amount of Indebtedness, Disqualified Stock or Preferred Stock outstanding solely as a result of fluctuations in the exchange rate of currencies or increases in the value of property securing Indebtedness will not be deemed to be an Incurrence of Indebtedness or issuance of Disqualified Stock or Preferred Stock for purposes of this Section 7.01. Guarantees of, or obligations in respect of letters of credit relating to, Indebtedness that are otherwise included in the determination of a particular amount of Indebtedness shall not be included in the determination of such amount of Indebtedness; provided that the Incurrence of the Indebtedness represented by such guarantee or letter of credit, as the case may be, was in compliance with this Section 7.01.

(c) For purposes of determining compliance with this Section 7.01, reborrowings of amounts previously repaid pursuant to “cash sweep” provisions or any similar provisions in respect of any Indebtedness that provide that Indebtedness is deemed to be repaid daily (or otherwise periodically) shall only be deemed for purposes of this Section 7.01 to have been Incurred on the date such Indebtedness was first Incurred and not on the date of any subsequent reborrowing thereof; provided that any such repaid amounts shall continue to be considered outstanding for all purposes under this Agreement until termination of such cash sweep arrangement.

(d) For purposes of determining compliance with any U.S. dollar-denominated restriction on the Incurrence of Indebtedness or the issuance of Disqualified Stock or Preferred Stock, the U.S. dollar-equivalent principal amount or liquidation preference, as applicable of Indebtedness, Disqualified Stock or Preferred Stock denominated in a foreign currency shall be calculated based on the relevant currency exchange rate in effect on the date such Indebtedness was Incurred, in the case of term debt, or first committed or first Incurred (whichever yields the lower U.S. dollar-equivalent), in the case of revolving credit debt or debt financing to fund an acquisition, or first issued in the case of Disqualified Stock or Preferred Stock; provided that if such Indebtedness, Disqualified Stock or Preferred Stock is Incurred to refinance other Indebtedness, Disqualified Stock or Preferred Stock, as the case may be, denominated in a foreign currency, and such refinancing would cause the applicable U.S. dollar-denominated restriction to be exceeded if calculated at the relevant currency exchange rate in effect on the date of such refinancing, such U.S. dollar-denominated restriction shall be deemed not to have been exceeded so long as the principal amount or liquidation preference, as applicable, of such Refinancing Indebtedness does not exceed the principal amount or liquidation preference, as applicable, of such Indebtedness, Disqualified Stock or Preferred Stock, as the case may be, being refinanced (*plus* any Refinancing Expenses).

(e) The principal amount or liquidation preference, as applicable, of any Indebtedness Incurred or Disqualified Stock or Preferred Stock issued to refinance other Indebtedness, Disqualified Stock or Preferred Stock, as the case may be, if Incurred or issued in a different currency from the Indebtedness, Disqualified Stock or Preferred Stock being refinanced, shall be calculated based on the currency exchange rate applicable to the currencies in which such respective Indebtedness, Disqualified Stock or Preferred Stock is denominated that is in effect on the date of such refinancing.

Section 7.02 Limitations on Liens. Create, incur, assume or suffer to exist any Lien upon any property or assets of any kind (real or personal, tangible or intangible) of the Parent Borrower or any Restricted Subsidiary, whether now owned or hereafter acquired (each, a “Subject Lien”) that secures obligations under any Indebtedness, except:

(a) in the case of Subject Liens on any Collateral, such Subject Lien is a Permitted Lien; and

(b) in the case of any other asset, right or property, any Subject Lien if (i) the Obligations are equally and ratably secured with (or on a senior basis to, in the case such Subject Lien secures any Subordinated Indebtedness) the obligations secured by such Subject Lien or (ii) such Subject Lien is a Permitted Lien;

provided, that notwithstanding anything else to the contrary herein or in any other Loan Document, no Loan Party may create, incur, assume or suffer to exist any Subject Lien (other than Permitted Liens within the meaning of clauses (1), (2), (3) and, solely to the extent not in connection with any transaction for borrowed money and not for a primary purpose of circumventing this proviso, (19) of that definition) on any intellectual property registered in Japan that is owned by any Guarantor organized or formed in Japan.

Any Lien created for the benefit of the Secured Parties pursuant to the preceding clause (b)(i) shall provide by its terms that such Lien shall be automatically and unconditionally be released and discharged upon the release and discharge of the Subject Lien that gave rise to the obligation to so secure the Obligations.

Section 7.03 Fundamental Changes. Merge, dissolve, liquidate, amalgamate, consolidate with or into another Person, or Dispose of (whether in one transaction or in a series of transactions) all or substantially all of its assets (whether now owned or hereafter acquired) to or in favor of any Person, except that, (other than in the case of clause (e) below) so long as no Event of Default would result therefrom:

(a) any Person may merge, amalgamate or consolidate with (i) any Borrower (including a merger, the purpose of which is to reorganize any Borrower into a new jurisdiction); provided that (A) such surviving Borrower shall (x) in the case of the Parent Borrower, be the Parent Borrower, (y) in the case of any Subsidiary Borrower that is a U.S. Subsidiary, be a corporation (or entity classified and treated as an association taxable as a corporation for U.S. federal income tax purposes), or a disregarded subsidiary of such a corporation (or other entity), organized under the laws of the United States, any state thereof or the District of Columbia and the applicable Borrower shall be the continuing or surviving Person or the surviving Person shall expressly assume the obligations of such Borrower pursuant to documents reasonably acceptable to the Administrative Agent and (z) in the case of any Subsidiary Borrower that is a Non-U.S. Subsidiary, be an entity organized under the laws of the jurisdiction of such Subsidiary or other jurisdiction reasonably acceptable to the Administrative Agent and each applicable Lender and the applicable Borrower shall be the continuing or surviving Person or the surviving Person shall expressly assume the obligations of such Borrower and (B) the surviving person shall provide any documentation and other information about such person as shall have been reasonably requested in writing by any Lender through the Administrative Agent that such Lender shall have reasonably determined is required by regulatory authorities under applicable "know your customer" and anti-money laundering rules and regulations, including Title III of the PATRIOT Act, or (ii) other than with respect to any merger, amalgamation or consolidation of any Borrower, any one or more Restricted Subsidiaries; provided that (x) any U.S. Loan Party or Grantor that is not a FSHCO may not merge with any Controlled Foreign Subsidiary or FSHCO that is not a Loan Party or Grantor, as applicable, if such U.S. Loan Party or Grantor (but only to the extent the validity, perfection and priority of the Liens on the Collateral pledged by such Grantor securing the Obligations is not adversely affected thereby), as applicable, will not be the continuing or surviving Person and (y) when any Guarantor is merging with a Person that is not a Loan Party (1) the Guarantor shall be the continuing or surviving Person or (2) such merger, amalgamation or consolidation shall be deemed to constitute either an Investment or Disposition, as elected by Parent Borrower, and such Investment must be an Investment permitted hereunder or such Disposition must be a Disposition permitted hereunder;

(b) (i) any Restricted Subsidiary that is not a Loan Party may merge, amalgamate or consolidate with or into any other Restricted Subsidiary that is not a Loan Party; provided, that any Grantor shall only merge, amalgamate or consolidate with or into a Loan Party or (if the validity, perfection and priority of the Liens on the Collateral pledged by such Grantor securing the Obligations is not adversely

affected thereby) another Grantor, (ii) any Restricted Subsidiary that is not a Borrower may liquidate or dissolve (provided, that (x) any Loan Party shall only liquidate or dissolve into another Loan Party and (y) any Grantor shall only liquidate or dissolve into a Loan Party or (if the validity, perfection and priority of the Liens on the Collateral pledged by such Grantor securing the Obligations is not adversely affected thereby) another Grantor) and (iii) any Borrower or any Restricted Subsidiary may (if the validity, perfection and priority of the Liens on the Collateral securing the Obligations is not adversely affected thereby) change its legal form;

(c) any Restricted Subsidiary may Dispose of all or substantially all of its assets (upon voluntary liquidation or otherwise) to any Borrower or to any Restricted Subsidiary; provided that if the transferor in such a transaction (x) is a Loan Party, then (i) the transferee must be a Loan Party or an entity that expressly assumes all the obligations of such transferor under this Agreement and (ii) to the extent constituting an Investment, such Investment must be an Investment permitted hereunder or (y) is a Grantor Disposing of Equity Interests in a Korean Subsidiary pledged as Collateral, then (i) the transferee must be a Loan Party or an entity that expressly assumes all the obligations of such transferor under this Agreement and (ii) to the extent constituting an Investment, such Investment must be an Investment permitted hereunder; provided, further, that the Borrowers may Dispose of all or substantially all of its assets (upon voluntary liquidation or otherwise) to any U.S. Loan Party or a Guarantor in the same jurisdiction as the disposing party or in another jurisdiction reasonably acceptable to the Administrative Agent;

(d) any Restricted Subsidiary may merge, amalgamate or consolidate with, or dissolve into, any other Person in order to effect an Investment permitted hereunder; provided that (i) the continuing or surviving Person shall, to the extent subject to the terms hereof, have complied with the requirements of Section 6.12, (ii) to the extent constituting an Investment, such Investment must be an Investment permitted hereunder and (iii) to the extent constituting a Disposition, such Disposition must be permitted hereunder;

(e) the Parent Borrower and the Restricted Subsidiaries may consummate the Spin-off Transactions and the other Transactions;

(f) any Restricted Subsidiary may merge, dissolve, liquidate, amalgamate, consolidate with or into another Person in order to effect a Disposition not prohibited pursuant to Section 7.04;

(g) any Permitted Investment or any transactions permitted pursuant to Sections 7.02 and 7.05 may be structured as a merger, consolidation or amalgamation; and

(h) the Parent Borrower and the Restricted Subsidiaries may consummate Permitted Restructuring Transactions.

#### Section 7.04 Asset Sales.

(a) Cause or make an Asset Sale, unless:

(i) the Parent Borrower or any of its Restricted Subsidiaries, as the case may be, receives consideration (including by way of relief from, or by any other person assuming responsibility for, any liabilities, contingent or otherwise) at the time of such Asset Sale at least equal to the Fair Market Value (as determined at the time of contractually agreeing to such Asset Sale) of the assets sold or otherwise disposed of;

(ii) no Event of Default shall have occurred or be continuing or result therefrom; and

(iii) except in the case of a Permitted Asset Swap, at least 75% of the consideration therefor received by the Parent Borrower or such Restricted Subsidiary, as the case may be, is in the form of cash or Cash Equivalents or Replacement Assets; provided that the amount of:

(A) any liabilities (as shown on the Parent Borrower's or such Restricted Subsidiary's most recent balance sheet or in the notes thereto for which internal financial statements are available immediately preceding such date or, if incurred or accrued subsequent to the date of such balance sheet, such liabilities that would have been reflected on the Parent Borrower's or such Restricted Subsidiary's balance sheet or in the footnotes thereto if such incurrence or accrual had taken place on or prior to the date of such balance sheet in the good faith determination of the Parent Borrower) of the Parent Borrower or such Restricted Subsidiary other than liabilities that are by their terms subordinated to the Obligations or are otherwise extinguished in connection with the transactions relating to such Asset Sale, or that are assumed by the transferee of any such assets or Equity Interests, in each case, pursuant to an agreement that releases or indemnifies the Parent Borrower or such Restricted Subsidiary, as the case may be, from further liability;

(B) any notes or other obligations or other securities or assets received by the Parent Borrower or such Restricted Subsidiary from such transferee that are converted by the Parent Borrower or such Restricted Subsidiary into cash or Cash Equivalents, or by their terms are required to be satisfied for cash or Cash Equivalents (to the extent of the cash or Cash Equivalents received), in each case, within 180 days of the receipt thereof; and

(C) any Designated Non-Cash Consideration received by the Parent Borrower or any of its Restricted Subsidiaries in such Asset Sale having an aggregate Fair Market Value, taken together with all other Designated Non-Cash Consideration received pursuant to this subclause (C) that is at that time outstanding, not to exceed the greater of (x) \$455,000,000 and (y) 35% of the EBITDA Grower Amount, calculated at the time of the receipt of such Designated Non-Cash Consideration (with the Fair Market Value of each item of Designated Non-Cash Consideration being measured at the time received and without giving effect to subsequent changes in value);

shall each be deemed to be Cash Equivalents for the purposes of this clause (ii).

(b) Within 455 days after the Parent Borrower's or any Restricted Subsidiary's receipt of the Net Cash Proceeds of any Asset Sale made pursuant to Section 7.04(a) or any Casualty Event, the Parent Borrower or such Restricted Subsidiary shall apply an amount equal to the Net Cash Proceeds from such Asset Sale or Casualty Event, at its option and subject to Section 2.05(b)(ii):

(i) to prepay Term Loans and, to the extent expressly permitted under Section 2.05(b)(ii)(A), other Permitted Debt that is secured by Collateral on a pari passu basis with the Liens securing the Obligations;

(ii) to make an investment in any one or more businesses, assets (other than working capital assets), or property or capital expenditures, in each case used or useful in a Similar Business;

(iii) to be used in the business operations of the Borrower Parties;



(iv) to make an investment (including capital expenditures) in any one or more businesses, properties (other than working capital assets) or assets (other than working capital assets) that replace the businesses, properties and/or assets that are the subject of such Asset Sale or Casualty Event; or

(v) any combination of the foregoing;

provided that the Parent Borrower and its Restricted Subsidiaries will be deemed to have complied with the provisions described in clause (ii), (iii), or (iv) of this Section 7.04(b) if and to the extent that, within 455 days after the Asset Sale that generated the Net Cash Proceeds, the Parent Borrower or such Restricted Subsidiary, as applicable, has entered into and not abandoned or rejected a binding agreement to make an investment in compliance with the provision described in clause (ii), (iii) or (iv) of this Section 7.04(b), and that investment is thereafter completed within 180 days after the end of such 455-day period;

(c) Pending the final application of any such amount of Net Cash Proceeds pursuant to Section 2.05(b)(ii) and this Section 7.04, the Parent Borrower or such Restricted Subsidiary may temporarily reduce Indebtedness under the Revolving Credit Facility, or otherwise invest or utilize such Net Cash Proceeds in any manner not prohibited by this Agreement.

(d) Notwithstanding anything in this Section 7.04 to the contrary or in any other Loan Document to the contrary, no Loan Party shall be permitted to transfer, exclusively license or otherwise Dispose of, directly or indirectly, (i) any Material Intellectual Property constituting Collateral to any Restricted Subsidiary that is not a Loan Party or (ii) any Material Intellectual Property to any Unrestricted Subsidiary under this Section 7.04 other than (x) non-exclusive licenses, sublicenses or cross-licenses or other similar intercompany disclosures of intellectual property, other IP Rights or other general intangibles or (y) to any Restricted Subsidiary that is not a Loan Party in the ordinary course of business or consistent with past practice in support of the business operation of the Parent Borrower and its Restricted Subsidiaries and not in furtherance of any third-party financing substantially contemporaneously incurred and secured by such Material Intellectual Property so transferred, exclusively licensed or Disposed of.

#### Section 7.05 Restricted Payments.

(a) Directly or indirectly:

(1) declare or pay any dividend or make any payment or distribution on account of the Parent Borrower's or any of its Restricted Subsidiaries' Equity Interests, including any payment made in connection with any merger, amalgamation or consolidation involving any Borrower (other than (A) dividends or distributions by the Parent Borrower payable solely in Equity Interests (other than Disqualified Stock) of the Parent Borrower; or (B) dividends or distributions by a Restricted Subsidiary so long as, in the case of any dividend or distribution payable on or in respect of any class or series of securities issued by a Restricted Subsidiary other than a Wholly Owned Restricted Subsidiary, a Borrower or a Restricted Subsidiary receives at least its pro rata share of such dividend or distribution in accordance with its Equity Interests in such class or series of securities);

(2) purchase, redeem, defease or otherwise acquire or retire for value any Equity Interests of the Parent Borrower, including in connection with any merger, amalgamation or consolidation;

(3) make any principal payment on, or redeem, repurchase, defease or otherwise acquire or retire for value, in each case, prior to any scheduled repayment, sinking fund payment or maturity, any Subordinated Indebtedness of any Borrower or any Guarantor (other than the payment, redemption, repurchase, defeasance, acquisition or retirement of (x) Subordinated Indebtedness of any Borrower or any Guarantor in anticipation of satisfying a sinking fund obligation, principal installment or final maturity, in each case due within one year of the date of such payment, redemption, repurchase, defeasance, acquisition or retirement or (y) intercompany Indebtedness among the Borrower Parties, except to the extent such Indebtedness constitutes Subordinated Indebtedness of a Loan Party owed to a Restricted Subsidiary that is not a Loan Party); or

(4) make any Restricted Investment;

(all such payments and other actions set forth in clauses (1) through (4) above being collectively referred to as “Restricted Payments”), unless, (x)(I) with respect to any Restricted Payment under the foregoing clauses (1) through (3), no Event of Default shall have occurred and be continuing or would result as a consequence thereof, and (II) with respect to any Restricted Investment, no Event of Default under Section 8.01(a) or (in each case, solely with respect to the Borrowers) Section 8.01(f) or (g) shall have occurred and be continuing or would result as a consequence thereof, and (y) at the time of such Restricted Payment, such Restricted Payment, together with the aggregate amount of all other Restricted Payments made by the Parent Borrower and its Restricted Subsidiaries after the Closing Date in reliance on this paragraph (including Restricted Payments permitted by Section 7.05(b)(i) in reliance on this paragraph, but excluding all other Restricted Payments permitted by Section 7.05(b)), is less than the sum of, without duplication (such sum of clauses (i) through (vii) below, the “Available Amount”),

(i) (A) the greater of \$650,000,000 and 50% of the EBITDA Grower Amount *plus* (B) 100% of the Cumulative Retained Excess Cash Flow Amount of the Parent Borrower for the period (taken as one accounting period) beginning on the first day of the fiscal quarter in which the Closing Date occurs to the end of the Parent Borrower’s most recently ended fiscal quarter for which internal financial statements are available at the time of such Restricted Payment or, in the case that such Cumulative Retained Excess Cash Flow Amount, for such period is a deficit, \$0, *plus*

(ii) 100% of the aggregate net proceeds, including cash and the Fair Market Value of assets (other than cash), received by the Parent Borrower after the Closing Date from the issue or sale of Equity Interests of the Parent Borrower (other than Excluded Equity), including such Equity Interests issued upon exercise of warrants or options, *plus*

(iii) [reserved], *plus*

(iv) the principal amount of any Indebtedness, or the liquidation preference or Maximum Fixed Repurchase Price, as the case may be, of any Disqualified Stock, in each case, of the Parent Borrower or any Restricted Subsidiary thereof issued after the Closing Date (other than Indebtedness or Disqualified Stock issued to a Restricted Subsidiary or an employee stock ownership plan or trust established by the Parent Borrower or any Restricted Subsidiary (other than to the extent such employee stock ownership plan or trust has been funded by the Parent Borrower or any Restricted Subsidiary)) that, in each case, has been converted into or exchanged for Equity Interests in the Parent Borrower (other than Excluded Equity), *plus*

(v) 100% of the aggregate amount received by the Parent Borrower or any Restricted Subsidiary in cash and the Fair Market Value of assets (other than (x) cash and (y) proceeds from any Asset Sale under clause (d) of the definition thereof) received by the Parent Borrower or any Restricted Subsidiary (less any amounts distributed as Leverage Excess Proceeds) from:

(A) the sale or other disposition (other than to the Parent Borrower or a Restricted Subsidiary of the Parent Borrower) of Restricted Investments made by the Parent Borrower and its Restricted Subsidiaries and from repurchases and redemptions of such Restricted Investments from the Parent Borrower and its Restricted Subsidiaries by any Person (other than the Parent Borrower or any of its Restricted Subsidiaries) and from repayments of loans or advances that constituted Restricted Investments, in each case made after the Closing Date,

(B) the sale (other than to the Parent Borrower or a Restricted Subsidiary or an employee stock ownership plan or trust established by the Parent Borrower or any Restricted Subsidiary (other than to the extent such employee stock ownership plan or trust has been funded by the Parent Borrower or any Restricted Subsidiary)) of the Capital Stock of an Unrestricted Subsidiary or any minority Investment, or

(C) any cash distribution or dividend from an Unrestricted Subsidiary from earned income, a Restricted Investment or a minority Investment, *plus*

(vi) any proceeds of sale, interest, returns of principal, repayments and similar payments by such Unrestricted Subsidiary or received in respect of any minority Investments, *plus*

(vii) in the event any Unrestricted Subsidiary has been redesignated as a Restricted Subsidiary or has been merged, consolidated or amalgamated with or into, or transfers or conveys its assets to, or is liquidated into, the Parent Borrower or a Restricted Subsidiary, in each case after the Closing Date, the Fair Market Value of the Investment of the Parent Borrower in such Unrestricted Subsidiary at the time of such redesignation, combination or transfer (or of the assets transferred or conveyed, as applicable), other than in each case to the extent that the designation of such Subsidiary as an Unrestricted Subsidiary was made pursuant to Section 7.05(b)(x) or (xix), or constituted a Permitted Investment, *plus*

(viii) the cumulative amount of the Declined Amounts since the Closing Date, *plus*

(ix) Leverage Excess Proceeds described in clause (a) of the definition of “Leverage Excess Proceeds”.

(b) Section 7.05 will not prohibit:

(i) the payment of any dividend or distribution or consummation of any redemption within sixty (60) days after the date of declaration thereof or the giving of a redemption notice related thereto, if at the date of declaration or notice such payment would have complied with the provisions of this Agreement;

(ii) (A) the redemption, repurchase, retirement or other acquisition of any Equity Interests (“Retired Capital Stock”) of the Parent Borrower, or Subordinated Indebtedness of the Parent Borrower or any Subsidiary Guarantor, in exchange for, or out of the proceeds of the issuance or sale of, Equity Interests of the Parent Borrower or contributions to the equity capital of the Parent Borrower (other than Excluded Equity) (collectively, including any such contributions, “Refunding Capital Stock”);

(B) the declaration and payment of accrued dividends on the Retired Capital Stock out of the proceeds of the issuance or sale (other than to a Restricted Subsidiary of the Parent Borrower or to an employee stock ownership plan or any trust established by the Parent Borrower or any of its Restricted Subsidiaries) of Refunding Capital Stock; and

(C) if immediately prior to the retirement of the Retired Capital Stock, the declaration and payment of dividends thereon was permitted pursuant to this covenant and has not been made as of such time (the “Unpaid Amount”), the declaration and payment of dividends on the Refunding Capital Stock (other than Refunding Capital Stock the proceeds of which were used to redeem, repurchase, retire or otherwise acquire any Equity Interests of the Parent Borrower) in an aggregate amount no greater than the Unpaid Amount (with the payment of such Unpaid Amount being treated as a payment under the applicable provision);

(iii) the prepayment, redemption, defeasance, repurchase or other acquisition or retirement of Subordinated Indebtedness of the Parent Borrower or any Subsidiary Guarantor made by exchange for, or out of the proceeds of the Incurrence of, Refinancing Indebtedness thereof, any Permitted Refinancing thereof or any other Indebtedness permitted to be incurred under Section 7.01;

(iv) the purchase, retirement, redemption or other acquisition (or Restricted Payments to the Parent Borrower to finance any such purchase, retirement, redemption or other acquisition) for value of Equity Interests (including related stock appreciation rights or similar securities) of the Parent Borrower held directly or indirectly by any future, present or former employee, officer, director, manager, consultant or independent contractor of the Parent Borrower or any Subsidiary of the Parent Borrower or their estates, heirs, family members, spouses or former spouses or permitted transferees (including for all purposes of this clause (iv), Equity Interests held by any entity whose Equity Interests are held by any such future, present or former employee, officer, director, manager, consultant or independent contractor or their estates, heirs, family members, spouses or former spouses or permitted transferees) pursuant to any management equity plan or stock option plan or any other management or employee benefit plan or other agreement or arrangement or any stock subscription or shareholder or similar agreement or upon the death, disability, retirement or termination of employment or service of such Person; provided, however, that the aggregate amounts paid under this clause (iv) shall not exceed the greater of (x) \$120,000,000 and (y) 9% of the EBITDA Grower Amount in any calendar year (with unused amounts in any calendar year being permitted to be carried over for the next succeeding calendar year); provided, further, however, that such amount in any calendar year may be increased by an amount not to exceed:

(A) the cash proceeds received by the Parent Borrower from the issuance or sale of Equity Interests (other than Disqualified Stock) of the Parent Borrower (to the extent contributed to the Parent Borrower), in each case, to any future, present or former employees, officers, directors, managers, consultants or independent contractors of the Parent Borrower or its Restricted Subsidiaries that occurs on or after the Closing Date; provided that the amount of such cash proceeds utilized for any such repurchase, retirement, other acquisition or dividend will not increase the Available Amount; *plus*

(B) the cash proceeds of key man life insurance policies received by the Parent Borrower or its Restricted Subsidiaries after the Closing Date; *plus*

(C) the amount of any cash bonuses otherwise payable to employees, officers, directors, managers, consultants or independent contractors of the Parent Borrower or its Restricted Subsidiaries that are foregone in return for the receipt of Equity Interests; *less*

(D) the amount of cash proceeds described in clause (A), (B) or (C) of this clause (iv) previously used to make Restricted Payments pursuant to this clause (iv); (provided that the Parent Borrower may elect to apply all or any portion of the aggregate increase contemplated by clauses (A), (B) and (C) above in any calendar year);

provided, further, that cancellation of Indebtedness owing to the Parent Borrower or any Restricted Subsidiary from any future, current or former officer, director, employee, manager, consultant or independent contractor (or any permitted transferees thereof) of the Parent Borrower or any of its Restricted Subsidiaries, in connection with a repurchase of Equity Interests of the Parent Borrower from such Persons will not be deemed to constitute a Restricted Payment for purposes of this Section 7.05 or any other provisions of this Agreement;

(v) the declaration and payment of dividends or distributions to holders of any class or series of Disqualified Stock of the Parent Borrower or any of its Restricted Subsidiaries and any class or series of Preferred Stock of any Restricted Subsidiaries issued or Incurred in accordance with the covenant described in Section 7.01;

(vi) the declaration and payment of dividends or distributions by Restricted Subsidiaries to Persons that own Equity Interests in such Subsidiaries; provided that in the case of a dividend or other distribution by a non-Wholly Owned Restricted Subsidiary, such dividends or distributions shall be made ratably with respect to their Equity Interests;

(vii) any Restricted Payments made in connection with the consummation of the Transactions, including any dividends, payments or loans made to the Parent Borrower to enable it to make any such payments;

(viii) in connection with any public offering of Equity Interests, Restricted Payments in an aggregate amount of the sum of (x) up to 7.0% per annum of the cash proceeds net of underwriting fees received by the Parent Borrower from any public offering of Equity Interests or contributed to the Parent Borrower from any public offering of Equity Interests, other than public offerings with respect to the Parent Borrower's common Equity Interests registered on Form S-4 or S-8 or successor form thereto and other than any public sale constituting Excluded Contributions or with respect to Disqualified Stock for which Restricted Payments are permitted pursuant to clause (v) of this Section 7.05(b), *plus* (y) 7.0% per annum of the market capitalization of the Parent Borrower, with unused amounts in any calendar year being permitted to be carried over to the next succeeding calendar year; provided that Restricted Payments made under this Section 7.05(b)(viii)(y) shall be applied *first*, to amounts carried over from the prior calendar year, if any and *second*, to all other amounts available under this Section 7.05(b)(viii)(y);

(ix) Restricted Payments that are made with Excluded Contributions;

(x) Restricted Payments in an aggregate amount taken together with all other Restricted Payments made pursuant to this clause (x) not to exceed the greater of (x) \$555,000,000 and (y) 42.5% of the EBITDA Grower Amount, so long as no Event of Default shall have occurred and be continuing or would result therefrom;

(xi) the prepayment, redemption, purchase, defeasance or other satisfaction of any Indebtedness (A) existing at the time a Person becomes a Subsidiary or (B) assumed in connection with the acquisition of assets, in each case so long as such Indebtedness was not incurred in contemplation of, such Person becoming a Subsidiary or such acquisition;

(xii) the Special Dividend and any other Restricted Payments in connection with the Spin-off Transactions;

(xiii) the Parent Borrower and any Restricted Subsidiaries may make Restricted Payments pursuant to and in accordance with stock incentive plans or other employee benefit plans for future, present or former directors, officers, employees, managers, consultants or independent contractors of the Parent Borrower and its Subsidiaries, in each case in the ordinary course of business;

(xiv) (A) redemptions, repurchases, retirements or other acquisitions of Equity Interests deemed to occur upon exercise of stock options, warrants, purchase or conversion options or similar rights if such Equity Interests represent a portion of the exercise price of, or tax withholdings with respect to, such options or warrants or similar rights, (B) payments made or expected to be made by the Parent Borrower or any Restricted Subsidiary in respect of withholding or similar taxes payable or expected to be payable by any future, present or former director, officer, employee, manager, consultant or independent contractor of the Parent Borrower or any Subsidiary of the Parent Borrower (or their respective Affiliates, estates, heirs, family members, spouses or former spouses or permitted transferees) in connection with the exercise of stock options or the grant, vesting or delivery of Equity Interests and (C) loans or advances to officers, directors, employees, managers, consultants and independent contractors of the Parent Borrower or any Subsidiary of the Parent Borrower in connection with such Person's purchase of Equity Interests of the Parent Borrower; provided that no cash is actually advanced pursuant to this clause (C), other than to pay taxes due in connection with such purchase, unless immediately repaid;

(xv) purchases of receivables pursuant to a Receivables Repurchase Obligation in connection with a Qualified Receivables Factoring or Qualified Receivables Financing and the payment or distribution of Receivables Fees;

(xvi) payments or distributions to satisfy dissenters' rights, pursuant to or in connection with a consolidation, merger, amalgamation or transfer of assets that complies with the provisions of this Agreement;

(xvii) the distribution, as a dividend or otherwise, of shares of Capital Stock of, or Indebtedness owed to the Parent Borrower or a Restricted Subsidiary by, Unrestricted Subsidiaries (other than Unrestricted Subsidiaries the primary assets of which are cash and/or Cash Equivalents);

(xviii) the payment of cash in lieu of the issuance of fractional shares of Equity Interests in connection with any merger, consolidation, amalgamation or other business combination, or in connection with any dividend, distribution or split of or upon exercise, conversion or exchange of Equity Interests, warrants, options or other securities exercisable or convertible into, Equity Interests of the Parent Borrower;

(xix) Investments in Unrestricted Subsidiaries having an aggregate Fair Market Value, taken together with all other Investments made pursuant to this clause (xix) that are at the time outstanding, without giving effect to the sale of an Unrestricted Subsidiary to the extent the proceeds of such sale do not consist of cash, Cash Equivalents or marketable securities, not to exceed the greater of \$360,000,000 and 27.5% of the EBITDA Grower Amount (with the Fair Market Value of each Investment being measured at the time made and without giving effect to subsequent changes in value);

(xx) Permitted Restructuring Transactions;

(xxi) any Restricted Payment so long as immediately after giving effect to the making of such Restricted Payment on a Pro Forma Basis, (x) the Parent Borrower's Consolidated Total Net Leverage Ratio does not exceed 3.00:1.00 and (y) no Event of Default shall have occurred and be continuing or would result therefrom;

(xxii) any payment that is intended to prevent any Indebtedness from being treated as an “applicable high yield discount obligation” within the meaning of Section 163(i)(1) of the Code;

(xxiii) any dividend, distribution, redemption or other Restricted Payment made with any Leverage Excess Proceeds described in clause (b) of the definition of “Leverage Excess Proceeds”;

(xxiv) settling conversions of Convertible Indebtedness (whether in cash, Equity Interests or any combination thereof) (in an aggregate amount since the date of this Agreement not to exceed the sum of (A) the principal amount of such Convertible Indebtedness received by the Borrower Parties *plus* (B) any payments received by any Borrower or any Restricted Subsidiary pursuant to the exercise, settlement or termination of any related Permitted Bond Hedge Transactions *plus* (C) cash in lieu of any fractional Equity Interests);

(xxv) (A) any payments in connection with a Permitted Bond Hedge Transaction and (B) the settlement of any related Permitted Warrant Transaction (1) by delivery of shares of the Borrower’s common stock upon settlement thereof or (2) by (X) set-off against the related Permitted Bond Hedge Transaction or (y) payment of an early termination amount thereof in common stock upon any early termination thereof;

(xxvi) additional Investments by any Loan Party in any Escrow Subsidiary constituting Additional Escrow Amounts with respect to such Escrow Subsidiary; and

(xxvii) the declaration and payments of dividends on, and any repurchase of, the Series A Preferred Stock of the Parent Borrower, par value \$1,500 per share, outstanding on the Spin-Off Date, so long as (1) no Event of Default shall have occurred or being continuing or result therefrom and (2) the aggregate amount taken together with all other Restricted Payments made pursuant to this clause (xxvii) shall not exceed \$2,000,000 in any financial year of the Parent Borrower.

(c) The Parent Borrower will not permit any Restricted Subsidiary to become an Unrestricted Subsidiary, or any Unrestricted Subsidiary to become a Restricted Subsidiary, except pursuant to the definition of “Unrestricted Subsidiary.” For purposes of designating any Restricted Subsidiary as an Unrestricted Subsidiary, all outstanding Investments by the Parent Borrower and its Restricted Subsidiaries (except to the extent repaid) in the Subsidiary so designated will be deemed to be Restricted Payments or Permitted Investments in an amount determined as set forth in the last sentence of the definition of “Investments.” Such designation will only be permitted if a Restricted Payment or Permitted Investment in such amount would be permitted at such time and if such Subsidiary otherwise meets the definition of an Unrestricted Subsidiary. Unrestricted Subsidiaries will not be subject to any of the restrictive covenants set forth in this Agreement.

(d) For purposes of this Section 7.05, if any Investment or Restricted Payment (or a portion thereof) would be permitted pursuant to one or more provisions described above and/or one or more of the exceptions contained in the definition of “Permitted Investments,” the Parent Borrower may divide and classify such Investment or Restricted Payment (or a portion thereof) in any manner that complies with this Section 7.05 and may later divide and reclassify any such Investment or Restricted Payment so long as the Investment or Restricted Payment (as so divided and/or reclassified) would be permitted to be made in reliance on the applicable exception as of the date of such reclassification; provided that any Restricted Payment made in reliance on Section 7.05(b)(xxiii) above shall not be permitted to be reclassified as made pursuant to any other provision described above and shall be deemed at all times to have been made in reliance on such Section 7.05(b)(xxiii).

(e) For purpose of determining compliance with this Section 7.05, any prepayment, redemption, defeasance, repurchase or other acquisition or retirement of Subordinated Indebtedness of the Parent Borrower or any Subsidiary Guarantor pursuant to “cash sweep” provisions or any similar provisions that provide that such Indebtedness is deemed to be repaid daily (or otherwise periodically) shall not constitute a Restricted Payment; provided that any such prepaid, redeemed, defeased, repurchased or otherwise acquired or retired amounts shall continue to be considered outstanding for all purposes under this Agreement until termination of such cash sweep arrangement.

(f) Notwithstanding anything in this Section 7.05 or in any other Loan Document to the contrary, no Loan Party shall be permitted to transfer, exclusively license or otherwise Dispose of, directly or indirectly, (i) any Material Intellectual Property constituting Collateral to any Restricted Subsidiary that is not a Loan Party or (ii) any Material Intellectual Property to any Unrestricted Subsidiary under this Section 7.05 or the definition of “Permitted Investment” other than (x) non-exclusive licenses, sublicenses or cross-licenses or other similar intercompany disclosures of intellectual property, other IP Rights or other general intangibles or (y) to any Restricted Subsidiary that is not a Loan Party in the ordinary course of business or consistent with past practice in support of the business operation of the Parent Borrower and its Restricted Subsidiaries and not in furtherance of any third-party financing substantially contemporaneously incurred and secured by such Material Intellectual Property so transferred, exclusively licensed or Disposed of.

#### Section 7.06 Burdensome Agreements.

(a) Permit any of its Restricted Subsidiaries to, directly or indirectly, create or otherwise cause or suffer to exist or become effective any consensual encumbrance or consensual restriction on the ability of:

(i) any Restricted Subsidiary to (A) pay dividends or make any other distributions to the Parent Borrower or any other Loan Party on its Capital Stock; or (B) pay any Indebtedness owed to the Parent Borrower or any other Loan Party; or

(ii) any Loan Party or Grantor to create, incur, assume or suffer to exist Liens on the Collateral of such Loan Party for the benefit of the Lenders with respect to the Facilities and the Obligations or under the Loan Documents.

(b) However, the preceding restrictions will not apply to encumbrances or restrictions existing under or by reason of:

(i) contractual encumbrances or restrictions of the Parent Borrower or any of its Restricted Subsidiaries in effect on the Closing Date, including pursuant to this Agreement and the other Loan Documents, related Swap Contracts and Indebtedness permitted pursuant to clause (c) of the definition of “Permitted Debt”, and any amendments, modifications, extensions, renewals or refinancing thereof that do not materially expand the scope of any such restriction or condition taken as a whole;

(ii) customary restrictions and conditions imposed by any Loan Document or by any instrument governing Indebtedness permitted hereunder;

(iii) applicable law or any applicable rule, regulation or order;

(iv) any agreement or other instrument of a Person acquired by or merged, amalgamated or consolidated with or into the Parent Borrower or any Restricted Subsidiary or an Unrestricted Subsidiary that is designated a Restricted Subsidiary that was in existence at the time of such acquisition (or at the time it merges with or into the Parent Borrower or any Restricted Subsidiary or assumed in connection with the acquisition of assets from such Person (but, in each



case, not created in contemplation thereof)), which encumbrance or restriction is not applicable to any Person, or the properties or assets of any Person, other than the Person, or the property or assets of the Person, so acquired or designated; provided that in connection with a merger, amalgamation or consolidation under this clause (iv), if a Person other than the Parent Borrower or such Restricted Subsidiary is the successor company with respect to such merger, amalgamation or consolidation, any agreement or instrument of such Person or any Subsidiary of such Person, shall be deemed acquired or assumed, as the case may be, by the Parent Borrower or such Restricted Subsidiary, as the case may be, at the time of such merger, amalgamation or consolidation;

(v) customary encumbrances or restrictions contained in contracts or agreements for the Dispositions of assets (including Equity Interests) applicable to such assets pending consummation of such Dispositions, including customary encumbrances or restrictions with respect to a Restricted Subsidiary imposed pursuant to an agreement entered into for the Disposition of Equity Interests or assets of such Restricted Subsidiary;

(vi) restrictions on cash or other deposits (including escrowed funds) or net worth under contracts (including letters of credit and bank guarantees) entered into in the ordinary course of business;

(vii) customary provisions in operating or other similar agreements, asset sale agreements and stock sale agreements entered into in connection with the entering into of such transaction, which limitation is applicable only to the assets that are the subject of those agreements;

(viii) restrictions or conditions imposed by any agreement relating to purchase money obligations for property acquired, Capitalized Lease Obligations and other secured Indebtedness permitted by this Agreement and secured by specific assets, in each case, only to the extent such restrictions or conditions are of the nature discussed in clause (ii) in Section 7.06(a) and apply only to the property so acquired;

(ix) customary provisions contained in leases, sub-leases, licenses, sublicenses, contracts and other similar agreements entered into in the ordinary course of business to the extent such obligations impose restrictions of the type described in clause (ii) in Section 7.06(a) on the property subject to such lease, license, contract or similar agreement;

(x) any encumbrance or restriction effected in connection with a Qualified Receivables Factoring or Qualified Receivables Financing that, in the good faith determination of the Borrowers, is necessary or advisable to effect such Qualified Receivables Factoring or Qualified Receivables Financing, as applicable;

(xi) any encumbrance or restriction contained in other Indebtedness, Disqualified Stock or Preferred Stock of the Parent Borrower or any Restricted Subsidiary that is incurred subsequent to the Closing Date pursuant to Section 7.01; provided that, with respect to any Indebtedness, Disqualified Stock or Preferred Stock in excess of the Threshold Amount, (A) such encumbrances and restrictions contained in any agreement or instrument will not materially affect the Parent Borrower's ability to make anticipated principal or interest payments under this Agreement (as determined by the Parent Borrower in good faith) or (B) such encumbrances and restrictions contained in any agreement or instrument taken as a whole are not materially more restrictive than the encumbrances and restrictions contained in this Agreement (as determined by the Parent Borrower in good faith);

(xii) any encumbrance or restriction contained in secured Indebtedness or Liens permitted to be incurred pursuant to Sections 7.01 and 7.02 to the extent limiting the right of the debtor to dispose of or encumber the assets securing such Indebtedness or Liens;

(xiii) any encumbrance or restriction arising or agreed to in the ordinary course of business, not relating to any Indebtedness, and that do not, individually or in the aggregate, (x) detract from the value of the property or assets of the Parent Borrower or any Restricted Subsidiary in any manner material to the Parent Borrower or any Restricted Subsidiary or (y) materially affect the Parent Borrower's ability to make future principal or interest payments under this Agreement, in each case, as determined by the Parent Borrower in good faith;

(xiv) customary provisions in joint venture agreements or arrangements and other similar agreements or arrangements relating solely to the applicable joint venture;

(xv) customary provisions restricting assignment of any agreement entered into in the ordinary course of business;

(xvi) any encumbrances or restrictions under the Senior Notes Indentures;

(xvii) any encumbrances or restrictions imposed by any amendments, modifications, restatements, renewals, increases, supplements, refundings, replacements or refinancings of the contracts, instruments or obligations referred to in Section 7.06(b)(i) through (b)(xvi); provided that such encumbrances and restrictions contained in any such amendment, modification, restatement, renewal, increase, supplement, refunding, replacement or refinancing are, in the good faith judgment of the Parent Borrower, not materially more restrictive, taken as a whole, than the encumbrances and restrictions prior to such amendment, modification, restatement, renewal, increase, supplement, refunding, replacement or refinancing; and

(xviii) any encumbrances or restrictions under the Separation Agreements or other agreements entered into in connection with the Spin-off Transactions.

(c) For purposes of determining compliance with this Section 7.06, (A) the priority of any Preferred Stock in receiving dividends or liquidating distributions prior to dividends or liquidating distributions being paid on common stock shall not be deemed a restriction on the ability to make distributions on Capital Stock and (B) the subordination of loans or advances made to the Parent Borrower or a Restricted Subsidiary to other Indebtedness Incurred by the Parent Borrower or any such Restricted Subsidiary shall not be deemed a restriction on the ability to make loans or advances.

Section 7.07 Accounting Changes. Make any change in fiscal year; provided, however, that any Borrower may, upon written notice to the Administrative Agent, change its fiscal year to any other fiscal year reasonably acceptable to the Administrative Agent, in which case, the Borrowers and the Administrative Agent will, and are hereby authorized by the Lenders to, make any amendments to this Agreement that are necessary, in the judgment of the Administrative Agent and the Borrowers, to reflect such change in fiscal year.

Section 7.08 Financial Covenant. As of the end of each fiscal quarter of the Parent Borrower, permit the Consolidated First Lien Net Leverage Ratio as of the end of each such fiscal quarter of the Parent Borrower to be greater than 4.50:1.00; provided that, in connection with the consummation of a Material Acquisition, the Parent Borrower shall be permitted to elect that the maximum Consolidated First Net Leverage Ratio permitted under this Section 7.08 be increased to 5.00:1.00 for the period beginning on the closing date of such Material Acquisition (including for pro forma determinations subsequent to such closing date) until (and including) the last day of the fourth full fiscal quarter of the Parent Borrower

following the closing date of such Material Acquisition (an “Acquisition Holiday”); provided, further, that (a) the Parent Borrower shall provide notice in writing to the Administrative Agent of such Acquisition Holiday and a transaction description of such Material Acquisition (including the Consolidated First Lien Net Leverage Ratio on a Pro Forma Basis) and (b) at the end of any Acquisition Holiday, the Consolidated First Lien Net Leverage Ratio permitted under this Section 7.08 shall revert to the covenant level set forth above.

Section 7.09 Amendments to Subordinated Indebtedness Documents or Organization Documents.

(a) Amend, modify or waive any of its rights under any agreement or instrument governing or evidencing any Subordinated Indebtedness to the extent such amendment, modification or waiver, taken as a whole, would reasonably be expected in the good faith judgment of the Parent Borrower to be adverse in any material respect to the Lenders; provided, however, that no amendment, modification or waiver in respect of Subordinated Indebtedness in connection with the incurrence of Refinancing Indebtedness in respect of the relevant Subordinated Indebtedness shall be prohibited under this Section 7.09(a) if the terms of such amendment, modification or waiver would be permitted either (x) pursuant to the definition of “Refinancing Indebtedness” or (y) such Indebtedness as modified would be permitted to be incurred at the time of such modification pursuant to Section 7.01.

(b) Amend or otherwise modify any of their Organization Documents to the extent such amendment or modification, taken as a whole, would reasonably be expected to be adverse in any material respect to the Lenders, except for any amendment or modification of any such Organization Document in connection with a Permitted Restructuring Transaction or the Spin-off Transactions; provided that any Borrower or Restricted Subsidiary may effect a change to its organizational form and/or consummate any other transaction that is permitted under Section 7.03.

Section 7.10 Anti-Corruption Laws; Sanctions Laws and Regulations.

(a) No Loan or any other transaction contemplated by this Agreement will violate Sanctions Laws and Regulations. No Borrower will request any Letter of Credit or Loan, and each of the Borrowers and other Loan Parties shall not, directly or indirectly, use, and shall procure that their Subsidiaries and its or their respective directors, officers, employees and, to the knowledge of the Borrowers, agents, shall not use, the proceeds of any Loan or Letter of Credit, or lend, contribute or otherwise make available such proceeds (i) in furtherance of an offer, payment, promise to pay, or authorization of the payment or giving of money, or anything else of value, to any Person or for any purpose in violation of any applicable Sanctions Laws and Regulations, (ii) for the purpose of funding, financing or facilitating any activities, business or transaction of or with any Sanctioned Person, or in any Sanctioned Country, except to the extent permitted for a Person required to comply with Sanctions Laws and Regulations, or (iii) in any other manner that would result in a violation by any party hereto of applicable Sanctions Laws and Regulations.

(b) Each Borrower and its Subsidiaries will not directly or indirectly use the proceeds of any Loan or Letter of Credit for any purpose in violation of applicable Anti-Corruption Laws.

Section 7.11 Transactions with Affiliates.

(a) Directly or indirectly, make any payment to, or sell, lease, transfer or otherwise dispose of any of its properties or assets to, or purchase any property or assets from, or enter into or make or amend any transaction or series of transactions, contract, agreement, understanding, loan, advance or guarantee with, or for the benefit of, any Affiliate of any Borrower involving aggregate consideration in excess of the greater of (x) \$195,000,000 and (y) 15% of the EBITDA Grower Amount (each of the foregoing, an “Affiliate Transaction”), unless such Affiliate Transaction is on terms that are not materially less favorable

to the relevant Borrower or the relevant Restricted Subsidiary than those that could have been obtained in a comparable transaction by the relevant Borrower or such Restricted Subsidiary with an unrelated Person on an arm's length basis (as determined in good faith by a Responsible Officer or the Board of Directors of the Parent Borrower).

(b) The foregoing provisions of Section 7.11(a) shall not apply to the following:

(i) transactions between or among the Loan Parties and/or any of their Restricted Subsidiaries (or an entity that becomes a Restricted Subsidiary as a result of such transaction), including transactions relating to or in connection with consummation of the Transactions;

(ii) (A) Restricted Payments permitted by Section 7.05, (B) Permitted Investments (other than Permitted Investments under clause (13) of the definition thereof) and (C) transactions permitted by Section 7.04;

(iii) transactions in which any Borrower or any Restricted Subsidiary, as the case may be, delivers to the Administrative Agent a letter from an Independent Financial Advisor stating that such transaction is fair to such Borrower or such Restricted Subsidiary from a financial point of view or meets the requirements of Section 7.11(a);

(iv) payments, loans, advances or guarantees (or cancellation of loans, advances or guarantees) to employees, officers, directors, managers, consultants or independent contractors for bona fide business purposes or in the ordinary course of business;

(v) any agreement or arrangement as in effect as of the Closing Date and set forth on Schedule 7.11 or as thereafter amended, supplemented or replaced (so long as such amendment, supplement or replacement agreement is not materially disadvantageous (as determined in good faith by the senior management of the Parent Borrower) to the Lenders when taken as a whole as compared to the original agreement or arrangement as in effect on the Closing Date) or any transaction or payments contemplated thereby (including fees, expenses and indemnities); provided that any such agreement, transaction or arrangement shall be required to be described on Schedule 7.11 only to the extent that such agreement, instrument, transaction or arrangement exceeds \$25,000,000;

(vi) [reserved];

(vii) the existence of, or the performance by any Borrower or any of its Restricted Subsidiaries of its obligations under the terms of, any stockholders or similar agreement (including any registration rights agreement or purchase agreement related thereto) to which it is a party entered into as of the Closing Date or other similar transactions, arrangements or agreements which it may enter into thereafter; provided, however, that the existence of, or the performance by any Borrower or any of its Restricted Subsidiaries of its obligations under, any future amendment to any such existing transaction, arrangement or agreement or under any similar transaction, arrangement or agreement entered into after the Closing Date shall only be permitted by this clause (vii) to the extent that the terms of any such existing transaction, arrangement or agreement, together with all amendments thereto, taken as a whole, or new transaction, arrangement or agreement are not otherwise disadvantageous (as determined in good faith by the senior management or the Board of Directors of the Parent Borrower) to the Lenders, in any material respect when taken as a whole as compared with the original transaction, arrangement or agreement as in effect on the Closing Date;

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(viii) transactions with customers, clients, suppliers or purchasers or sellers of goods or services, in each case, in the ordinary course of business and otherwise in compliance with the terms of this Agreement, which are fair to the Borrowers and their Restricted Subsidiaries or are on terms at least as favorable (as determined in good faith by the senior management of the Parent Borrower) as might reasonably have been obtained at such time from an unaffiliated party;

(ix) any transaction effected as part of a Qualified Receivables Financing or a Qualified Receivables Factoring;

(x) the sale, issuance or transfer of Equity Interests (other than Disqualified Stock) of a Borrower;

(xi) customary payments by the Parent Borrower and any of the Restricted Subsidiaries made for any financial advisory, financing, underwriting or placement services or in respect of other investment banking activities (including in connection with acquisitions or divestitures), which payments are approved by the majority of the members of the Board of Directors or a majority of the disinterested members of the board of directors of the Parent Borrower or a Restricted Subsidiary in good faith;

(xii) [reserved];

(xiii) any transaction with a Person (other than an Unrestricted Subsidiary) that would constitute an Affiliate Transaction solely because a Borrower or a Restricted Subsidiary owns an Equity Interest in or otherwise controls such Person; provided that no Affiliate of any Borrower or any of its Subsidiaries (other than a Borrower or a Restricted Subsidiary) shall have a beneficial interest or otherwise participate in such Person;

(xiv) transactions between any Borrower or any of its Restricted Subsidiaries and any Person that would constitute an Affiliate solely because such Person is a director or such Person has a director which is also a director of any Borrower or any direct or indirect parent of any Borrower; provided, however, that such director abstains from voting as a director of such Borrower or such direct or indirect parent of any Borrower, as the case may be, on any matter involving such other Person;

(xv) the formation and maintenance of any consolidated group or subgroup for tax, accounting or cash pooling or management purposes in the ordinary course of business;

(xvi) transactions to effect the Transactions and the payment of all transaction, underwriting, commitment and other fees and expenses related to the Transactions (including the Transaction Costs);

(xvii) pledges of Equity Interests of Unrestricted Subsidiaries;

(xviii) the issuances of securities or other payments, awards or grants in cash, securities or otherwise pursuant to, or the funding of, employment arrangements, equity purchase agreements, stock options and stock ownership plans or similar employee benefit plans approved by the board of directors of a Borrower or of a Restricted Subsidiary, as appropriate, in good faith;

(xix) (A) any employment, consulting, service or termination agreement, or customary indemnification arrangements, entered into by any Borrower or any of its Restricted Subsidiaries with current, former or future officers, directors, employees, managers, consultants and independent contractors of any Borrower or any of its Restricted Subsidiaries (or of any direct or

indirect parent of such Borrower to the extent such agreements or arrangements are in respect of services performed for such Borrower or any of the Restricted Subsidiaries), (B) any subscription agreement or similar agreement pertaining to the repurchase of Equity Interests pursuant to put/call rights or similar rights with current, former or future officers, directors, employees, managers, consultants and independent contractors of any Borrower or any of its Restricted Subsidiaries or of any direct or indirect parent of such Borrower and (C) any payment of compensation (including bonus and severance arrangements) or other employee compensation, benefit plan or arrangement, any health, disability or similar insurance plan which covers officers, directors, employees, managers, consultants and independent contractors of any Borrower or any of its Restricted Subsidiaries or any direct or indirect parent of such Borrower (including amounts paid pursuant to any management equity plan or any other management or employee benefit plan or agreement or any stock subscription or shareholder agreement, stock option or similar plans and any successor plan thereto and any supplemental executive retirement benefit plans or arrangements), in each case in the ordinary course of business or as otherwise approved in good faith by management of the Parent Borrower or a Restricted Subsidiary, as appropriate;

(xx) (A) investments by Affiliates in securities, loans or other Indebtedness or preferred Equity Interests of any Borrower or any of its Subsidiaries and transactions with Affiliates solely in their capacity as holders of Indebtedness or preferred Equity Interests of any Borrower or any of its Subsidiaries and (B) payments to Affiliates in respect of securities or loans or other Indebtedness of the Parent Borrower or any of its Restricted Subsidiaries contemplated in the foregoing clause (A) or that were acquired from Persons other than the Parent Borrower or any of its Restricted Subsidiaries, in each case, in accordance with the terms of such securities or loans;

(xxi) (A) the granting of registration and other customary rights in connection with the issuance of Equity Interests by any Borrower or any of its Restricted Subsidiaries not otherwise prohibited by the Loan Documents, (B) the existence of, or the performance by any Borrower or any of its Restricted Subsidiaries of their obligations under the terms of, any registration rights agreement or shareholder's agreement to which they are a party or become a party in the future and (C) and the payment of reasonable out-of-pocket costs and expenses relating to registration rights and indemnities provided in connection with the foregoing;

(xxii) investments by any Affiliate or a direct or indirect parent of any Borrower in securities of any Borrower or any Restricted Subsidiary or debt securities or Preferred Stock of any Restricted Subsidiary (and payment of reasonable out-of-pocket expenses incurred by such Affiliate or a direct or indirect parent of such Borrower in connection therewith);

(xxiii) transactions with joint ventures for the purchase or sale of goods, equipment and services entered into in the ordinary course of business;

(xxiv) any lease (or sublease) entered into between any Borrower or any Restricted Subsidiary, as lessee (or sublessee), and any Affiliate of any Borrower, as lessor, in the ordinary course of business;

(xxv) (A) intellectual property and technology licenses and research and development agreements in the ordinary course of business and (B) intercompany intellectual property and technology licenses and research and development agreements;

(xxvi) transactions pursuant to, and complying with, Section 7.01 (to the extent such transaction complies with Section 7.11(a) or Section 7.03);

(xxvii) Spin-off Transactions; or

Section 7.12 Line of Business. Engage in any line of business other than those that are substantially similar to the lines of business conducted by the Borrowers and the Restricted Subsidiaries on the Closing Date and any business incidental, related, complementary, synergistic or ancillary thereto or reasonable extensions, developments or expansions thereof (including the Spin-off Transactions).

Notwithstanding anything to the contrary in this Agreement, neither this Agreement or any other Loan Document shall prohibit or restrict the consummation of (or any action taken by any Borrower Party in connection with or incidental to the consummation of) (x) the Transactions and (y) global intercompany cash pooling and cash management arrangements in the ordinary course of business (provided that solely with respect to intercompany cash pooling and cash management arrangements in the form of an intercompany loan or note provided by a Restricted Subsidiary that is not a Loan Party to a Loan Party, subject to subordination in right of payment to the Obligations pursuant to the Intercompany Subordination Agreement or other customary subordination arrangements).

## ARTICLE VIII

### EVENTS OF DEFAULT AND REMEDIES

Section 8.01 Events of Default. Any of the following shall constitute an “Event of Default”:

(a) Non-Payment. Any Borrower or any other Loan Party or Grantor fails to pay in the currency required hereunder (i) when due and as required to be paid herein, any amount of principal of any Loan, (ii) within five (5) Business Days after the same becomes due and payable, any interest on any Loan or on any L/C Obligation or (iii) within ten (10) Business Days after the same becomes due and payable, any fee or any other amount payable hereunder or with respect to any other Loan Document; or

(b) Specific Covenants. Any Borrower, Loan Party or Grantor fails to perform or observe any term, covenant or agreement contained in any of Section 6.03(a), Section 6.05(a) (solely with respect to the Borrowers) or in any Section of Article VII (subject, in the case of the Financial Covenant, to the proviso at the end of this clause (b)); provided that a Default by the Borrowers under Section 7.08 (a “Financial Covenant Event of Default”) shall not constitute an Event of Default with respect to any Term Facility, any New Term Facility or any Specified Refinancing Debt (unless refinancing the Revolving Credit Facility), unless and until the Required Revolving Lenders shall have terminated their Revolving Credit Commitments and declared all amounts outstanding under the Revolving Credit Facility to be due and payable; or

(c) Other Defaults. Any Loan Party or Grantor fails to perform or observe any covenant or agreement (other than those specified in Section 8.01(a) or (b) above) contained in any Loan Document on its part to be performed or observed and such failure continues for thirty (30) days after notice thereof by the Administrative Agent to any Borrower; or

(d) Representations and Warranties. Any representation, warranty, certification or statement of fact made or deemed made by or on behalf of any Borrower, any other Loan Party or any Grantor herein, in any other Loan Document, or in any document required to be delivered in connection herewith or therewith shall be incorrect or misleading in any material respect (or in any respect if such representation or warranty is already qualified by materiality) when made or deemed made and, to the extent capable of being cured, such representation, warranty, certification or statement of fact is not corrected or clarified within thirty (30) days after it was initially made; or

(e) Cross-Default. Any Loan Party or any Restricted Subsidiary (i) fails to make any payment beyond the applicable grace period with respect thereto, if any (whether by scheduled maturity, required prepayment, acceleration, demand, or otherwise) in respect of any Indebtedness (other than Indebtedness hereunder and intercompany Indebtedness) having an aggregate outstanding principal amount equal to or greater than the Threshold Amount; (ii) fails to observe or perform any other agreement or condition relating to any such Indebtedness, or any other event occurs (other than, with respect to the Term Facility, a default or an event of default in respect of the observance of or compliance with any financial maintenance covenant, which is addressed by clause (iii) below), the effect of which default or other event is to cause, or to permit the holder or holders of such Indebtedness (or a trustee or agent on behalf of such holder or holders or beneficiary or beneficiaries) after the expiration of any applicable grace or cure period therefor to cause, with the giving of notice if required, such Indebtedness to become due or to be repurchased, prepaid, defeased or redeemed (automatically or otherwise), in each case, prior to its Stated Maturity; provided that this clause (e)(ii) shall not apply (v) to the mandatory prepayment of any bridge financing made with the proceeds of permanent financing or the proceeds of asset sales, incurrences of Indebtedness or equity issuances, (w) to any event requiring the repurchase, repayment or redemption (automatically or otherwise) or an offer to repurchase, prepay or redeem any Indebtedness, or the delivery of any notice with respect thereto, solely as a result of the Parent Borrower's or any of its Subsidiaries' failure to consummate a merger or other acquisition contemplated to be funded in whole or in part with the proceeds of such Indebtedness, (x) secured Indebtedness that becomes due as a result of the sale or transfer or other Disposition (including a Casualty Event) of the property or assets securing such Indebtedness permitted hereunder and under the documents providing for such Indebtedness and, in each case of the foregoing clauses (v), (w) and (x), such Indebtedness is repaid when required under the documents providing for such Indebtedness, (y) events of default, termination events or any other similar event under the documents governing Swap Contracts for so long as such event of default, termination event or other similar event does not result in the occurrence of an early termination date or any acceleration or prepayment of any amounts or other Indebtedness payable thereunder or (z) Indebtedness that upon the happening of any such default or event automatically converts into Equity Interests (other than Disqualified Stock or, in the case of a Restricted Subsidiary, Disqualified Stock or Preferred Stock) in accordance with its terms; provided, further, that such failure is unremedied and is not validly waived by the holders of such Indebtedness in accordance with the terms of the documents governing such Indebtedness prior to any termination of the Revolving Credit Commitments or acceleration of the Loans pursuant to Section 8.02 or (iii) fails to observe or perform any other agreement or condition relating to any such Indebtedness containing or otherwise requiring observance or compliance with a financial maintenance covenant and the holder or holders of such Indebtedness (or a trustee or agent on behalf of such holder or holders or beneficiary or beneficiaries) have caused such Indebtedness to become due or to be repurchased, prepaid, defeased or redeemed (automatically or otherwise), or an offer to repurchase, prepay, defease or redeem such Indebtedness to be made, prior to its Stated Maturity (each such occurrence, an "Acceleration"); provided, however, that if such holder or holders (or a trustee or an agent on behalf of such holder or holders or beneficiary or beneficiaries) irrevocably rescind such Acceleration, the Event of Default with respect to this clause (e) shall automatically cease from and after such date; provided, further, that the occurrence of conversion, redemption or repurchase right of holders under Convertible Indebtedness shall not cause a Default or an Event of Default under this clause (e); or

(f) Insolvency Proceedings, Etc. (i) Any Loan Party, any Material Restricted Subsidiary or any Grantor (x) institutes, or consents to the institution of any proceeding under any Debtor Relief Law, a winding-up, an administration, a dissolution, or a composition or makes an assignment for the benefit of creditors or any other action is commenced (by way of voluntary arrangement, scheme of arrangement or otherwise), or (y) appoints, applies for or consents to the appointment of any receiver, administrator, administrative receiver, trustee, custodian, conservator, liquidator, rehabilitator, judicial manager, provisional liquidator, administrator, receiver and manager, controller, monitor or similar officer for it or for all or any material part of its property; (ii) any receiver, trustee, custodian, conservator, liquidator,



rehabilitator, judicial manager, provisional liquidator, administrator, administrative receiver, receiver and manager, controller, monitor or similar officer is appointed without the application or consent of such Person and the appointment continues undischarged or unstayed for sixty (60) days; or (iii) any proceeding under any Debtor Relief Law (including for the appointment of any receiver, trustee, custodian, conservator, liquidator, rehabilitator, judicial manager, provisional liquidator, administrator, administrative receiver, receiver and manager, controller, monitor or similar officer) relating to any such Person or to all or substantially all of its property is instituted without the consent of such Person and continues undismissed or unstayed for sixty (60) days, or an order for relief is entered in any such proceeding; or

(g) Inability to Pay Debts. Any Loan Party, any Material Restricted Subsidiary or any Grantor (other than any Immaterial Subsidiary) becomes unable or admits in writing its inability or fails generally to pay its debts as they become due or is otherwise presumed to be insolvent by applicable Law; or

(h) Judgments. There is entered against any Loan Party or any Restricted Subsidiary a final judgment or order for the payment of money in an aggregate amount (as to all such judgments and orders) equal to or greater than the Threshold Amount (to the extent not paid and not covered by (i) independent third-party insurance as to which the insurer has been notified of such judgment or order and does not deny coverage or (ii) an enforceable indemnity to the extent that such Loan Party or Restricted Subsidiary shall have made a claim for indemnification and the applicable indemnifying party shall not have disputed such claim) and there is a period of sixty (60) consecutive days after such judgment has become final during which a stay of enforcement of such judgment, by reason of a pending appeal, bond or otherwise, is not in effect; or

(i) ERISA. (i) One or more ERISA Events occur which ERISA Event or ERISA Events results or would reasonably be expected to result in liability of any Loan Party, a Grantor or any ERISA Affiliate in an aggregate amount which would reasonably be expected to result in a Material Adverse Effect, (ii) any Loan Party, any Grantor or any ERISA Affiliate fails to pay when due, after the expiration of any applicable grace period, any installment payment with respect to its withdrawal liability under Section 4201 of ERISA which has resulted or would reasonably be expected to result in liability of any Loan Party or any ERISA Affiliate in an aggregate amount which would reasonably be expected to result in a Material Adverse Effect or (iii) with respect to a Non-U.S. Plan, a Non-U.S. Benefit Event that would reasonably be expected to result in a Material Adverse Effect; or

(j) Invalidity of Certain Loan Documents. (i) Any material provision of this Agreement, any Collateral Document or any Guaranty (in each case, subject to the Legal Reservations, Perfection Requirements and the Perfection Exceptions), at any time after its execution and delivery and for any reason other than as expressly permitted hereunder or thereunder (including as a result of a transaction permitted under [Section 7.03](#) or [Section 7.04](#)) until the Date of Full Satisfaction has occurred, ceases to be in full force and effect (except that any such failure to be in full force and effect with respect to the documents referred to in [clause \(g\)](#) of the definition of Loan Documents shall constitute an Event of Default only if the Borrowers receive notice thereof and the Borrowers fail to remedy the relevant failure in all material respects within fifteen (15) days of receiving said notice); (ii) any Loan Party or Grantor contests in writing the validity or enforceability of any provision of this Agreement, any Collateral Document or any Guaranty; (iii) any Loan Party or Grantor denies in writing that it has any or further liability or obligation under any Loan Document (other than as a result of the occurrence of the Date of Full Satisfaction), or purports in writing to revoke or rescind any Loan Document or the perfected first priority Liens created thereby (except as otherwise expressly provided in this Agreement or the Collateral Documents); or (iv) any security interest and Lien on any material portion of the Collateral purported to be created by any Collateral Document shall cease to be in full force and effect, or shall cease to give the Collateral Agent, for the benefit of the Secured Parties, the Liens, rights, powers and privileges purported to be created and granted under such Collateral Document, including a perfected security interest in and Lien on such Collateral to the extent required

thereunder with the priority required thereby, except to the extent that any such loss of Liens, perfection or priority results solely from (x) the release thereof as provided in this Agreement or the applicable Collateral Documents or the termination of the applicable Collateral Documents in accordance with the terms thereof, (y) the Collateral Agent no longer having possession of certificates actually delivered to it representing securities pledged under the Collateral Documents or (z) a Uniform Commercial Code filing (or similar statements or filings in other jurisdictions) having lapsed because a Uniform Commercial Code continuation statement (or similar statements or filings in other jurisdictions) was not filed in a timely manner.

(k) Change of Control. There occurs any Change of Control.

Notwithstanding anything to the contrary in this Agreement, no Event of Default or breach of any representation or warranty in Article V, any covenant in Articles VI or VII or any other undertaking herein shall constitute a Default or Event of Default if such Event of Default or breach of such representation or warranty in Article V, such covenant in Articles VI or VII or such other undertaking herein would not have occurred but for a fluctuation (or other adverse change) in currency exchange rates.

Section 8.02 Remedies Upon Event of Default. If any Event of Default has occurred and is continuing (including any Event of Default arising by virtue of the termination and declaration contemplated by the proviso to Section 8.01(b)), the Administrative Agent shall (i) at the request of, or may, with the consent of, the Required Lenders (provided that, if a Financial Covenant Event of Default or an Event of Default of the type described in Section 8.01(e)(iii) has occurred and is continuing, the Administrative Agent shall, at the request of, or may, with the consent of, the Required Revolving Lenders only, and in such case, without limiting the proviso to Section 8.01(b) (which proviso shall be deemed to apply to an Event of Default of the type described in Section 8.01(e)(iii), *mutatis mutandis*, for purposes of this Section), only with respect to the Revolving Credit Facility and any Letters of Credit, L/C Credit Extensions and L/C Obligations) and (ii) automatically, in the case of any event described in Sections 8.01(f) or 8.01(g) with respect to a Loan Party or Grantor, take any or all of the following actions (each, an “Enforcement Event”):

(a) declare the commitment of each Lender to make Loans and any obligation of the L/C Issuers to make L/C Credit Extensions to be terminated, whereupon such commitments and obligation shall be terminated;

(b) declare the unpaid principal amount of all outstanding Loans, all interest accrued and unpaid thereon, and all other amounts owing or payable hereunder or under any other Loan Document to be immediately due and payable, without presentment, demand, protest or other notice of any kind, all of which are hereby expressly waived by the Borrowers;

(c) require that the Borrowers Cash Collateralize the L/C Obligations (in an amount equal to the then Outstanding Amount thereof); and/or

(d) exercise on behalf of itself, the L/C Issuers and the Lenders all rights and remedies available to it, the L/C Issuers and the Lenders under the Loan Documents, under any document evidencing Indebtedness in respect of which the Facilities have been designated as “Designated Senior Debt” (or any comparable term) and/or under applicable Law;

provided, however, that upon the occurrence of any Event of Default under Sections 8.01(f) or 8.01(g) with respect to any Borrower, other Loan Party or Grantor formed in the United States, the obligation of each Lender to make Loans and any obligation of the L/C Issuers to make L/C Credit Extensions shall automatically terminate, the unpaid principal amount of all outstanding Loans and all interest and other amounts as aforesaid shall automatically become due and payable, and the obligation of the Borrowers to Cash Collateralize the L/C Obligations as aforesaid shall automatically become effective, in each case without further act of the Administrative Agent or any Lender.

Section 8.03 Clean-Up Period. Notwithstanding anything in any Loan Document to the contrary, for a period commencing on the Closing Date and ending on the date that is thirty (30) days following the Closing Date (the “Clean-Up Period Termination Date”), any misrepresentation (other than a misrepresentation with respect to a Specified Representation) or any Default or Event of Default arising therefrom will be deemed not to be a breach of representation or warranty, a Default or an Event of Default, as the case may be, if, and for so long as, the circumstances giving rise to the relevant misrepresentation:

- (a) relate primarily to the Parent Borrower and its Subsidiaries;
- (b) are capable of being remedied and the Parent Borrower and its Subsidiaries are taking appropriate steps to remedy such misrepresentation;
- (c) have not been procured by or approved by the Parent Borrower or any of its Subsidiaries; and
- (d) do not have and would not be reasonably likely to have a Material Adverse Effect;

provided that, if the relevant circumstances are continuing on or after the Clean-Up Period Termination Date, there shall be a breach of representation or warranty, Default or Event of Default, as the case may be, notwithstanding this Section 8.03.

Section 8.04 Application of Funds. After the exercise of remedies provided for in Section 8.02 (or after an actual or deemed entry of an order for relief with respect to any Borrower under any Debtor Relief Law), any amounts received on account of the Obligations shall, subject to the provisions of Sections 2.16 and 2.17, be applied by the Administrative Agent in the following order:

(a) first, to payment of that portion of the Obligations constituting fees, indemnities, expenses and other amounts (including fees, disbursements and other charges of counsel payable under Section 10.04 and amounts payable under Article III and amounts owing in respect of (x) the preservation of Collateral or the Collateral Agent’s security interest in the Collateral or (y) with respect to enforcing the rights of the Secured Parties under the Loan Documents) payable to the Administrative Agent and the Collateral Agent in their respective capacity as such;

(b) second, to payment in full of Unfunded Advances/Participations (the amounts so applied to be distributed between or among, as applicable, the Administrative Agent and the L/C Issuers pro rata in accordance with the amounts of Unfunded Advances/Participations owed to them on the date of any such distribution);

(c) third, to payment of that portion of the Obligations constituting fees, indemnities, expenses and other amounts (other than principal, interest and Letter of Credit fees) payable to the Lenders and the L/C Issuers (including fees, disbursements and other charges of counsel payable under Sections 10.04 and 10.05) arising under the Loan Documents and amounts payable under Article III, ratably among them in proportion to the respective amounts described in this clause (c) held by them;

(d) fourth, to payment of that portion of the Obligations constituting accrued and unpaid Letter of Credit fees and interest on the Loans and L/C Borrowings, ratably among the Lenders and the L/C Issuers in proportion to the respective amounts described in this clause (d) held by them;

(e) fifth, (i) to payment of that portion of the Obligations constituting unpaid principal of the Loans, the L/C Borrowings and obligations of the Loan Parties then owing under the Secured Hedge Agreements and the Secured Cash Management Agreements and (ii) to Cash Collateralize that portion of L/C Obligations comprising the aggregate undrawn amount of Letters of Credit to the extent not otherwise Cash Collateralized by the Borrowers pursuant to Sections 2.03 and 2.16, ratably among the Lenders, the L/C Issuers, the Hedge Banks party to such Secured Hedge Agreements and the Cash Management Banks party to such Secured Cash Management Agreements in proportion to the respective amounts described in this clause (e) held by them; provided that (x) any such amounts applied pursuant to the foregoing clause (ii) shall be paid to the Administrative Agent for the ratable account of the applicable L/C Issuers to Cash Collateralize such L/C Obligations, (y) subject to Sections 2.03(d) and 2.16, amounts used to Cash Collateralize the aggregate undrawn amount of Letters of Credit pursuant to this clause (e) shall be applied to satisfy drawings under such Letters of Credit as they occur and (z) upon the expiration of any Letter of Credit without any pending drawing, the pro rata share of Cash Collateral attributable to such expired Letter of Credit shall be applied by the Administrative Agent in accordance with the priority of payments set forth in this Section 8.04;

(f) sixth, to the payment of all other Obligations of the Loan Parties and Grantors owing under or in respect of the Loan Documents or under Secured Hedge Agreements and the Secured Cash Management Agreements that are then due and payable to the Administrative Agent and the other Secured Parties, ratably based upon the respective aggregate amounts of all such Obligations then owing to the Administrative Agent and the other Secured Parties; and

(g) last, after all of the Obligations have been paid in full (other than contingent indemnification obligations not yet due and owing), to the Borrowers or as otherwise required by Law;

provided that no amounts received from any Guarantor shall be applied to Excluded Swap Obligations of such Guarantor.

If any amount remains on deposit as Cash Collateral after all Letters of Credit have either been fully drawn or expired without any pending drawing, such remaining amount shall be applied to the other Obligations, if any, in accordance with the priority of payments set forth above. Notwithstanding the foregoing, Obligations arising under Secured Cash Management Agreements and Secured Hedge Agreements shall be excluded from the application of payments described above if the Administrative Agent has not received written notice thereof, together with such supporting documentation as the Administrative Agent may reasonably request, from the applicable Cash Management Bank or Hedge Bank, as the case may be. Each Cash Management Bank or Hedge Bank not a party to this Agreement that has given the notice contemplated by the preceding sentence shall, by such notice, be deemed to have acknowledged and accepted the appointment of the Administrative Agent pursuant to the terms of Article IX for itself and its Affiliates as if a "Lender" party hereto.

It is understood and agreed by each Loan Party, each Grantor and each Secured Party that none of the Administrative Agent and Collateral Agent shall have any liability for any determinations made by it in this Section 8.04, in each case except to the extent resulting from the gross negligence, bad faith or willful misconduct of the Administrative Agent or the Collateral Agent, as applicable (as determined by a court of competent jurisdiction in a final and non-appealable decision). Each Loan Party, each Grantor and each Secured Party also agrees that the Administrative Agent and the Collateral Agent may (but shall not be required to), at any time and in its sole discretion, and with no liability resulting therefrom, petition a court of competent jurisdiction regarding any application of Collateral in accordance with the requirements hereof, and the Administrative Agent and the Collateral Agent shall be entitled to wait for, and may conclusively rely on, any such determination.

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**ARTICLE IX**  
**ADMINISTRATIVE AGENT AND OTHER AGENTS**

Section 9.01 Appointment and Authorization of Agents.

(a) Each Lender and L/C Issuer hereby irrevocably appoints JPMorgan to act on its behalf as Administrative Agent hereunder and under the other Loan Documents (subject to the provisions in Section 9.09), and designates and authorizes the Administrative Agent to take such actions on its behalf under the provisions of this Agreement and each other Loan Document and to exercise such powers and perform such duties as are expressly delegated to the Administrative Agent by the terms of this Agreement or any other Loan Document, together with such actions and powers as are reasonably incidental thereto. The Administrative Agent may perform any of its duties through its officers, directors, agents, employees, or affiliates. Notwithstanding any provision to the contrary contained elsewhere herein or in any other Loan Document, no Agent shall have any duties or responsibilities, except those expressly set forth herein, nor shall any Agent have or be deemed to have any fiduciary relationship with any Lender or participant, and no implied covenants, functions, responsibilities, duties, obligations or liabilities shall be read into this Agreement or any other Loan Document or otherwise exist against any Agent. Regardless of whether a Default has occurred and is continuing and without limiting the generality of the foregoing sentence, the use of the term “agent” herein and in the other Loan Documents with reference to any Agent is not intended to connote any fiduciary or other implied (or express) obligations arising under agency doctrine of any applicable Law. Instead, such term is used merely as a matter of market custom, and is intended to create or reflect only an administrative relationship between independent contracting parties; additionally, each Lender agrees that it will not assert any claim against the Administrative Agent based on an alleged breach of fiduciary duty by the Administrative Agent in connection with this Agreement and the transactions contemplated hereby.

(b) Each L/C Issuer shall act on behalf of the Lenders with respect to any Letters of Credit issued by it and the documents associated therewith, and such L/C Issuer shall have all of the benefits and immunities (i) provided to the Agents in this Article IX with respect to any acts taken or omissions suffered by such L/C Issuer in connection with Letters of Credit issued by it or proposed to be issued by it and the applications and agreements for letters of credit pertaining to such Letters of Credit as fully as if the term “Agent” as used in this Article IX and in the definition of “Agent-Related Person” included such L/C Issuer with respect to such acts or omissions, and (ii) as additionally provided herein with respect to such L/C Issuer.

Each of the Lenders (including in its capacities as a Lender, L/C Issuer (if applicable) and a potential Cash Management Bank party to a Secured Cash Management Agreement and/or a potential Hedge Bank party to a Secured Hedge Agreement) hereby irrevocably appoints and authorizes JPMorgan as Collateral Agent to act as the agent of (and to hold, enter into, deliver, sign, execute and enforce any security interest, charge or other Lien created by the Collateral Documents for and on behalf of or in trust for) such Lender for purposes of acquiring, holding and enforcing any and all Liens on Collateral granted by any of the Loan Parties or Grantors to secure any of the Secured Obligations, together with such powers and discretion as are reasonably incidental thereto. In connection therewith, the Collateral Agent (and any co-agents, sub-agents and attorneys-in-fact appointed by the Collateral Agent pursuant to Section 9.02 for purposes of holding or enforcing any Lien on the Collateral (or any portion thereof) granted under the Collateral Documents, or for exercising any rights and remedies thereunder at the direction of the Collateral Agent), shall be entitled to the benefits of all provisions of this Article IX (including Section 9.07, as though such co-agents, sub-agents and attorneys-in-fact were the Collateral Agent under the Loan Documents) and Section 10.04 as if set forth in full herein with respect thereto and all references to Administrative Agent in this Article IX shall, where applicable, be read as including a reference to the Collateral Agent. Without

limiting the generality of the foregoing, the Lenders hereby expressly authorize the Administrative Agent as Collateral Agent to execute any and all documents (including releases, payoff letters and similar documents) with respect to the Collateral and the rights of the Secured Parties with respect thereto (including the Intercreditor Agreement, any Applicable Intercreditor Arrangement or any other intercreditor agreement), as contemplated by and in accordance with the provisions of this Agreement and the Collateral Documents and acknowledge and agree that any such action by any Agent shall bind the Lenders (including in its capacities as a Lender, L/C Issuer (if applicable) and a potential Cash Management Bank party to a Secured Cash Management Agreement and/or a potential Hedge Bank party to a Secured Hedge Agreement) and each Secured Party ratifies and approves all acts and declarations previously done by the Collateral Agent on such Secured Party's behalf.

Section 9.02 Delegation of Duties. Each of the Administrative Agent and the Collateral Agent, as applicable, may execute any of its duties and exercise its rights and powers under this Agreement or any other Loan Document (including for purposes of holding or enforcing any Lien on the Collateral (or any portion thereof) granted under the Collateral Documents or of exercising any rights and remedies thereunder) by or through agents, employees or attorneys-in-fact and shall be entitled to advice of counsel and other consultants or experts concerning all matters pertaining to such duties. Each of the Administrative Agent and the Collateral Agent and any such sub agent may perform any and all of its duties and exercise its rights and powers by or through their respective Agent-Related Persons. The Administrative Agent shall not be responsible for the negligence or misconduct of any sub-agent except to the extent that a court of competent jurisdiction determines in a final and non-appealable judgment that the Administrative Agent acted with bad faith, gross negligence or willful misconduct in the selection of such sub-agent. The exculpatory provisions of this Article IX shall apply to any such sub agent and to the Agent-Related Persons of the Administrative Agent and the Collateral Agent and any such sub agent, and shall apply to their respective activities in connection with the syndication of the credit facilities provided for herein as well as activities as Administrative Agent or Collateral Agent, as applicable.

Section 9.03 Liability of Agents.

(a) No Agent-Related Person shall be (i) liable for any action taken or omitted to be taken by any of them under or in connection with this Agreement or any other Loan Document or the transactions contemplated hereby (except for its own gross negligence, bad faith or willful misconduct in connection with its duties expressly set forth herein, to the extent determined in a final, non-appealable judgment by a court of competent jurisdiction), (ii) liable for any action taken or not taken by it (A) with the consent or at the request of the Required Lenders (or such other number or percentage of the Lenders as shall be necessary, or as the Administrative Agent shall believe in good faith shall be necessary, under the circumstances as provided in Sections 10.01 and 8.02) or (B) in the absence of its own gross negligence, bad faith or willful misconduct as determined by the final, non-appealable judgment of a court of competent jurisdiction, in connection with its duties expressly set forth herein, (iii) responsible in any manner to any Lender or participant for any recital, statement, representation or warranty made by any Loan Party or Grantor or any officer thereof, contained herein or in any other Loan Document, or in any certificate, report, statement or other document referred to or provided for in, or received by the Administrative Agent under or in connection with, this Agreement or any other Loan Document, (iv) responsible for or have any duty to ascertain or inquire into the validity, effectiveness, genuineness, enforceability or sufficiency of this Agreement or any other Loan Document or any other agreement, instrument or document, or the creation, perfection or priority of any Lien, or security interest created or purported to be created under the Collateral Documents, or for any failure of any Loan Party or any other party to any Loan Document to perform its obligations hereunder, (v) responsible for or have any duty to ascertain or inquire into the value or the sufficiency of any Collateral or (vi) responsible for or have any duty to ascertain or inquire into the satisfaction of any condition set forth in Article IV or elsewhere herein, other than to confirm receipt of items expressly required to be delivered to the Administrative Agent. No Agent-Related Person shall be

under any obligation to any Lender or participant to ascertain or to inquire as to the observance or performance of any of the agreements contained in, or conditions of, this Agreement or any other Loan Document, or to inspect the properties, books or records of any Loan Party or Grantor or any Affiliate thereof. The Administrative Agent shall not be responsible or have any liability for, or have any duty to ascertain, inquire into monitor or enforce, compliance with the provisions relating to Disqualified Institutions or Net Short Lenders. Without limiting the generality of the foregoing, the Administrative Agent shall not (x) be obligated to ascertain, monitor or inquire as to whether any Lender or participant or prospective Lender or participant is a Disqualified Institution or Net Short Lender or (y) have any liability with respect to or arising out of any assignment or participation of loans, or disclosure of confidential information, to, or the restriction on any exercise of rights or remedies of, any Disqualified Institution or Net Short Lender.

(b) No Agent shall have any duty to (i) take any discretionary action or exercise any discretionary powers, except discretionary rights and powers expressly contemplated hereby or by the other Loan Documents that such Agent is required to exercise as directed in writing by the Required Lenders (or such other number or percentage of the Lenders as shall be expressly provided for herein or in the other Loan Documents); provided that no Agent shall be required to take any action that, in its opinion or the opinion of its counsel, may expose such Agent to liability or that is contrary to any Loan Document or applicable Law; including any action that may be in violation of the automatic stay under any requirement of Law relating to bankruptcy, insolvency or reorganization or relief of debtors or that may effect a forfeiture, modification or termination of property of a Defaulting Lender in violation of any requirement of Law relating to bankruptcy, insolvency or reorganization or relief of debtors; provided, further, that the Administrative Agent or the Collateral Agent, as applicable, may seek clarification or direction from the Required Lenders prior to the exercise of any such instructed action and may refrain from acting until such clarification or direction has been provided or (ii) disclose, except as expressly set forth herein and in the other Loan Documents, or be liable for the failure to disclose, any information relating to the Borrowers or any of their Affiliates that is communicated to or obtained by any Person serving as an Agent or any of its Affiliates in any capacity. Nothing in this Agreement shall require the Administrative Agent or the Collateral Agent, as applicable, to expend or risk its own funds or otherwise incur any financial liability in the performance of any of its duties hereunder or in the exercise of any of its rights or powers if it shall have reasonable grounds for believing that repayment of such funds or adequate indemnity against such risk or liability is not reasonably assured to it.

(c) Any assignor of a Loan or seller of a participation hereunder shall be entitled to rely conclusively on a representation of the assignee Lender or Participant in the relevant Assignment and Assumption or participation agreement, as applicable, that such assignee or purchaser is not a Disqualified Institution.

(d) [Reserved].

(e) Erroneous Payments.

(i) Each Lender and each L/C Issuer hereby agrees that (A) if the Administrative Agent notifies such Lender or L/C Issuer that the Administrative Agent has determined in its sole discretion that any funds received by such Lender or L/C Issuer from the Administrative Agent or any of its Affiliates were erroneously transmitted to, or otherwise erroneously or mistakenly received by, such Lender or L/C Issuer (whether or not known to such Lender or L/C Issuer) (whether as a payment, prepayment or repayment of principal, interest, fees or otherwise; individually and collectively, a "Erroneous Payment") and demands the return of such Erroneous Payment (or a portion thereof), such Lender or L/C Issuer shall promptly, but in no event later than one Business Day thereafter, return to the Administrative Agent the amount of any such Erroneous

Payment (or portion thereof) as to which such a demand was made, in Same Day Funds (in the currency so received), together with interest thereon in respect of each day from and including the date such Erroneous Payment (or portion thereof) was received by such Lender or L/C Issuer to the date such amount is repaid to the Administrative Agent in Same Day Funds at the greater of the Overnight Rate and a rate determined by the Administrative Agent in accordance with banking industry rules on interbank compensation from time to time in effect and (B) to the extent permitted by applicable law, such Lender or L/C Issuer shall not assert any right or claim to the Erroneous Payment, and hereby waives as to the Administrative Agent, any claim, counterclaim, defense or right of set-off or recoupment with respect to any demand, claim or counterclaim by the Administrative Agent for the return of any Erroneous Payments received, including, without limitation, waiver of any defense based on "discharge for value" or any similar doctrine. A notice of the Administrative Agent to any Lender or any L/C Issuer under this clause (i) shall be conclusive, absent manifest error.

(ii) Without limiting immediately preceding clause (i), each Lender and each L/C Issuer hereby further agrees that if it receives an Erroneous Payment from the Administrative Agent (or any of its Affiliates) (x) that is in a different amount than, or on a different date from, that specified in a notice of payment sent by the Administrative Agent (or any of its Affiliates) with respect to such Erroneous Payment (an "Erroneous Payment Notice") or (y) that was not preceded or accompanied by an Erroneous Payment Notice, or (z) that such Lender or L/C Issuer otherwise becomes aware was transmitted, or received, in error or by mistake (in whole or in part), in each case, an error has been made (and that it is deemed to have knowledge of such error at the time of receipt of such Erroneous Payment) with respect to such Erroneous Payment, and to the extent permitted by applicable law, such Lender or L/C Issuer shall not assert any right or claim to the Erroneous Payment, and hereby waives, any claim, counterclaim, defense or right of set-off or recoupment with respect to any demand, claim or counterclaim by the Administrative Agent for the return of any Erroneous Payments received, including waiver of any defense based on "discharge for value" or any similar doctrine. Each Lender and each L/C Issuer agrees that, in each such case, it shall promptly (and, in all events, within one Business Day of its knowledge (or deemed knowledge) of such error) notify the Administrative Agent of such occurrence and, upon demand from the Administrative Agent, it shall promptly, but in all events no later than one Business Day thereafter, return to the Administrative Agent the amount of any such Erroneous Payment (or portion thereof) as to which such a demand was made in Same Day Funds (in the currency so received), together with interest thereon in respect of each day from and including the date such Erroneous Payment (or portion thereof) was received by such Lender or L/C Issuer to the date such amount is repaid to the Administrative Agent in Same Day Funds at the greater of the Overnight Rate and a rate determined by the Administrative Agent in accordance with banking industry rules on interbank compensation from time to time in effect.

(iii) The Borrowers and each other Loan Party and Grantor hereby agrees that (x) in the event an Erroneous Payment (or portion thereof) is not recovered from any Lender or L/C Issuer that has received such Erroneous Payment (or portion thereof) for any reason, the Administrative Agent shall be subrogated to all the rights of such Lender or L/C Issuer with respect to such amount and (y) an Erroneous Payment shall not pay, prepay, repay, discharge or otherwise satisfy any Obligations owed by the Borrowers or any other Loan Party or any Grantor unless, for the avoidance of doubt, such Erroneous Payment (or portion thereof) that is not recovered from such Lender or L/C Issuer is with respect to any funds paid by any Borrower Party to the Administrative Agent, in which case such Erroneous Payment shall be deemed to be an optional prepayment of the Obligations owed to such Lender or L/C Issuer paid in accordance with this Agreement.



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(iv) Each party's obligations under this Section 9.03(e) shall survive the resignation or replacement of the Administrative Agent or any transfer of title or obligations by, or the replacement of, a Lender, the termination of the Commitments or the repayment, satisfaction or discharge of all Obligations (or any portion thereof) under any Loan Document.

Section 9.04 Reliance by Agents. Each Agent shall be entitled to rely, and shall be fully protected in relying, upon any writing, communication, signature, resolution, representation, notice, request, consent, certificate, instrument, affidavit, letter, telegram, facsimile, electronic mail message, Internet or intranet website posting or other distribution statement or other written documents reasonably believed by it to be genuine and correct and to have been signed, sent or made by the proper Person or Persons. Each Agent also may rely upon any statement made to it orally or by telephone and reasonably believed by it to have been made by the proper Person, and shall not incur any liability for relying thereon. In determining compliance with any condition hereunder to the making of a Loan, or the issuance, extension, amendment, increase, reinstatement or renewal of a Letter of Credit that by its terms must be fulfilled to the satisfaction of a Lender or L/C Issuer, the Administrative Agent may presume that such condition is satisfactory to such Lender or L/C Issuer unless the Administrative Agent shall have received notice to the contrary from such Lender or L/C Issuer prior to the making of such Loan or the issuance, extension, amendment, increase, reinstatement or renewal of such Letter of Credit, as applicable. Each Agent may consult with, and rely upon (and be fully protected in relying upon), advice and statements of legal counsel (including counsel to any Loan Party), independent accountants and other experts selected by such Agent. Each Agent shall be fully justified in failing or refusing to take any action under any Loan Document unless it shall first receive such advice or concurrence of the Required Lenders (or such other number of Lenders as may be expressly required hereby in any instance) as it deems appropriate and, if it so requests, it shall first be indemnified to its satisfaction by the Lenders, against any and all liability and expense which may be incurred by it by reason of taking or continuing to take any such action. Each Agent shall in all cases be fully protected in acting, or in refraining from acting, under this Agreement or any other Loan Document in accordance with a request or consent of the Required Lenders (or such other number of Lenders as may be expressly required hereby in any instance) and such request and any action taken or failure to act pursuant thereto shall be binding upon all the Lenders.

Section 9.05 Notice of Default. No Agent shall be deemed to have knowledge or notice of the occurrence of any Default, except with respect to defaults in the payment of principal, interest and fees required to be paid to that Agent for the account of the applicable Lenders, unless that Agent shall have received written notice from a Lender or any Borrower referring to this Agreement, identifying such Default and stating that such notice is a "notice of default." The Administrative Agent will notify the Lenders of its receipt of any such notice. The Administrative Agent shall take such action with respect to any Event of Default as may be directed by the Required Lenders or the Required Revolving Lenders, as applicable, in accordance with Article VIII; provided, however, that unless and until the Administrative Agent has received any such direction, the Administrative Agent may (but shall not be obligated to) take such action, or refrain from taking such action, with respect to such Event of Default as it shall deem advisable or in the best interest of the Lenders.

Section 9.06 Credit Decision; Disclosure of Information by Agents. Each Lender acknowledges that no Agent-Related Person has made any representation or warranty to it, and that no act by any Agent hereafter taken, including any consent to and acceptance of any assignment or review of the affairs of any Loan Party or any Grantor or any Affiliate thereof, shall be deemed to constitute any representation or warranty by any Agent-Related Person to any Lender as to any matter, including whether Agent-Related Persons have disclosed material information in their possession. Each Lender represents to each Agent that it has, independently and without reliance upon any Agent-Related Person and based on such documents and information as it has deemed appropriate, made its own appraisal of, and investigation into, the business, prospects, operations, property, financial and other condition and creditworthiness of the Loan

Parties and their respective Subsidiaries, and all applicable bank or other regulatory Laws relating to the transactions contemplated hereby, and made its own decision to enter into this Agreement and to extend credit to the Borrowers and the other Loan Parties and Grantors hereunder. Each Lender also represents that it will, independently and without reliance upon any Agent-Related Person and based on such documents and information as it shall deem appropriate at the time, continue to make its own credit analysis, appraisals and decisions in taking or not taking action under this Agreement and the other Loan Documents, and to make such investigations as it deems necessary to inform itself as to the business, prospects, operations, property, financial and other condition and creditworthiness of the Borrowers and the other Loan Parties and the Grantors. Except for notices, reports and other documents expressly required to be furnished to the Lenders by any Agent herein or in any other Loan Document, such Agent shall not have any duty or responsibility to provide any Lender with any credit or other information concerning the business, prospects, operations, property, financial and other condition or creditworthiness of any of the Loan Parties and the Grantors or any of their respective Affiliates which may come into the possession of any Agent-Related Person.

Section 9.07 Indemnification of Agents. Whether or not the transactions contemplated hereby are consummated, each Lender shall, on a ratable basis based on such Lender's Pro Rata Share of all the Facilities, indemnify upon demand each Agent-Related Person (to the extent not reimbursed by or on behalf of any Loan Party and without limiting the obligation of any Loan Party to do so), and hold harmless each Agent-Related Person in each case from and against any and all Indemnified Liabilities incurred by such Agent-Related Person (including, for the avoidance of doubt, any such Agent-Related Person in its capacity as L/C Issuer); provided, however, that no Lender shall be liable for any Indemnified Liabilities incurred by an Agent-Related Person to the extent such Indemnified Liabilities are determined in a final, non-appealable judgment by a court of competent jurisdiction to have resulted from such Agent-Related Person's own gross negligence, bad faith or willful misconduct; provided, however, that no action taken in accordance with the directions of the Required Lenders (or such other number or percentage of the Lenders as shall be required by the Loan Documents) shall be deemed to constitute gross negligence, bad faith or willful misconduct for purposes of this Section 9.07; provided, further, that to the extent any L/C Issuer is entitled to indemnification under this Section 9.07 solely in its capacity and role as an L/C Issuer, only the Revolving Credit Lenders shall be required to indemnify such L/C Issuer under this Section 9.07 (which indemnity shall be provided by such Lenders based upon their respective Pro Rata Share of the Revolving Credit Facility). In the case of any investigation, litigation or proceeding giving rise to any Indemnified Liabilities, this Section 9.07 shall apply whether or not any such investigation, litigation or proceeding is brought by any Lender or any other Person. Without limiting the foregoing, each Lender shall reimburse the Administrative Agent upon demand for its Pro Rata Share of any costs or out-of-pocket expenses (including the fees, disbursements and other charges of counsel) incurred by the Administrative Agent in connection with the preparation, execution, delivery, administration, modification, amendment or enforcement (whether through negotiations, legal proceedings or otherwise) of, or legal advice in respect of rights or responsibilities under, this Agreement, any other Loan Document, or any document contemplated by or referred to herein, to the extent that the Administrative Agent is not reimbursed for such expenses by or on behalf of the Borrowers; provided that such reimbursement by the Lenders shall not affect the Borrowers' continuing reimbursement obligations with respect thereto; provided, further, that failure of any Lender to indemnify or reimburse the Administrative Agent shall not relieve any other Lender of its obligation in respect thereof. The undertaking in this Section 9.07 shall survive termination of the Aggregate Commitments, the payment of all other Obligations and the resignation or removal of the Administrative Agent.

Section 9.08 Agents in their Individual Capacities. Any Agent and its Affiliates may make loans to, issue letters of credit for the account of, accept deposits from, acquire Capital Stock in and generally engage in any kind of banking, trust, financial advisory, underwriting or other business with each of the Loan Parties and their respective Affiliates as though it were not an Agent or an L/C Issuer hereunder

and without notice to or consent of the Lenders. The Lenders acknowledge that, pursuant to such activities, an Agent or its Affiliates may receive information regarding any Loan Party or its Affiliates (including information that may be subject to confidentiality obligations in favor of such Loan Party or such Affiliate) and acknowledge that such Agent shall be under no obligation to provide such information to them. With respect to its Loans, such Agent shall have the same rights and powers under this Agreement as any other Lender and may exercise such rights and powers as though it were not an Agent or an L/C Issuer, and the terms “Lender” and “Lenders” include such Agent in its individual capacity (unless otherwise expressly indicated or unless the context otherwise requires).

#### Section 9.09 Successor Agents.

(a) The Administrative Agent and Collateral Agent may resign as the Administrative Agent or Collateral Agent, as applicable, upon thirty (30) days’ written notice to the Borrowers and the Lenders provided that, if at the time of such resignation, there is a successor Administrative Agent or Collateral Agent, as applicable, satisfactory to each of the resigning Agent, the incoming Agent and the Borrower Representative, each, in its sole discretion, then the resigning Agent, the incoming Agent and the Borrower Representative may agree to waive or shorten the thirty (30) day notice period. If the Administrative Agent, Collateral Agent or a controlling Affiliate of the Administrative Agent or the Collateral Agent is subject to an Agent-Related Distress Event, the Borrowers may remove such Agent from such role upon ten (10) days’ written notice to the Lenders. Upon receipt of any such notice of resignation or removal, the Required Lenders shall appoint a successor agent for the Lenders, which successor agent shall be consented to by the Borrowers at all times other than during the existence of an Event of Default under Section 8.01(a), (f), or (g) (which consent of the Borrowers shall not be unreasonably withheld, conditioned or delayed). If no successor agent is appointed prior to the effective date of the resignation or removal, as applicable, of the Administrative Agent or Collateral Agent, as applicable, the Administrative Agent or Collateral Agent (other than to the extent subject to an Agent-Related Distress Event), as applicable, may appoint, after consulting with the Lenders and the Borrowers, a successor agent from among the Lenders. Upon the acceptance of its appointment as successor agent hereunder, the Person acting as such successor agent shall succeed to all the rights, powers and duties of the retiring Administrative Agent or Collateral Agent, as applicable, and the term “Administrative Agent” or “Collateral Agent,” as applicable, shall mean such successor administrative agent or such successor collateral agent, as applicable, and the retiring Administrative Agent’s or Collateral Agent’s appointment, powers and duties as the Administrative Agent or Collateral Agent, as applicable, shall be terminated. After the retiring Administrative Agent’s or Collateral Agent’s resignation or removal hereunder as the Administrative Agent or Collateral Agent, the provisions of this Article IX and Sections 10.04 and 10.05 shall continue in effect for its benefit as to any actions taken or omitted to be taken by it while it was the Administrative Agent or Collateral Agent under this Agreement. If no successor agent has accepted appointment as the Administrative Agent or Collateral Agent (as applicable) by the date which is thirty (30) days following the retiring Administrative Agent’s or Collateral Agent’s (as applicable) notice of resignation or removal, the retiring Administrative Agent’s or Collateral Agent’s resignation or removal shall nevertheless thereupon become effective and (i) the retiring Administrative Agent or Collateral Agent, as applicable, shall be discharged from its duties and obligations hereunder and under the other Loan Documents (except that in the case of any collateral security held by the Administrative Agent or Collateral Agent on behalf of the Lenders under any of the Loan Documents, the retiring Agent shall continue to hold such collateral security as bailee, trustee or other applicable capacity until such time as a successor of such Administrative Agent or Collateral Agent is appointed) (for the avoidance of doubt any agency fees for the account of the retiring agent shall cease to accrue from (and shall be payable on) the date that a successor Agent is appointed), (ii) all payments, communications and determinations provided to be made by, to or through the Administrative Agent shall instead be made by or to each Lender directly, until such time as the Required Lenders appoint a successor Administrative Agent or Collateral Agent (as applicable) as provided for above in this Section 9.09 and (iii) the Lenders shall perform all of the duties of the Administrative Agent or Collateral Agent, as applicable, hereunder

until such time, if any, as the Required Lenders appoint a successor Administrative Agent or Collateral Agent (as applicable) as provided for above. Upon the acceptance of any appointment as the Administrative Agent or Collateral Agent hereunder by a successor and upon the execution and filing or recording of such financing statements, or amendments thereto, and such amendments or supplements to the Collateral Documents, and such other instruments or notices, as may be necessary or desirable, or as the Required Lenders may request, in order to continue the perfection of the Liens granted or purported to be granted by the Collateral Documents, the successor Administrative Agent or Collateral Agent, as applicable, shall thereupon succeed to and become vested with all the rights, powers, discretion, privileges, and duties of the retiring Administrative Agent or Collateral Agent. Upon the acceptance of any appointment as the Administrative Agent or Collateral Agent hereunder by a successor or upon the expiration of the thirty (30)-day period following the retiring Administrative Agent's or Collateral Agent's notice of resignation or removal without a successor having been appointed, the retiring Administrative Agent or Collateral Agent, as applicable, shall be discharged from its duties and obligations hereunder and under the other Loan Documents other than as specifically set forth in clause (i) above of this Section 9.09(a) but the provisions of this Article IX and Sections 10.04 and 10.05 shall continue in effect for the benefit of such retiring Agent, its sub-agents and their respective Agent-Related Persons in respect of any actions taken or omitted to be taken by any of them solely in respect of the Loan Documents or Obligations, as applicable, while the retiring Agent was acting as Administrative Agent or Collateral Agent, as applicable. At any time the Administrative Agent or Collateral Agent is a Defaulting Lender pursuant to clause (d) of the definition thereof, the Administrative Agent or Collateral Agent (as applicable) may be removed as the Administrative Agent or Collateral Agent (as applicable) hereunder at the request of the Borrowers and the Required Lenders.

(b) Any resignation by or removal of JPMorgan as Administrative Agent or Collateral Agent pursuant to this Section 9.09 shall also constitute its resignation or removal as an L/C Issuer, in which case the resigning or removed L/C Issuer (x) shall not be required to issue any further Letters of Credit hereunder and (y) shall maintain all of its rights as L/C Issuer with respect to any Letters of Credit issued by it prior to the date of such resignation or removal. Upon the acceptance of a successor's appointment as Administrative Agent or Collateral Agent hereunder or upon the expiration of the thirty (30)-day period following the retiring Administrative Agent or Collateral Agent's notice of resignation or removal without a successor agent having been appointed, (i) such successor (if any) shall succeed to and become vested with all of the rights, powers, privileges and duties of the retiring L/C Issuer, (ii) the retiring L/C Issuer shall be discharged from all of their respective duties and obligations hereunder or under the other Loan Documents and (iii) the successor L/C Issuer (if any) shall issue letters of credit in substitution for the Letters of Credit, if any, outstanding at the time of such succession or make (or the Borrowers shall enter into) other arrangements satisfactory to the retiring L/C Issuer to effectively assume the obligations of the retiring L/C Issuer with respect to such Letters of Credit.

Section 9.10 Administrative Agent May File Proofs of Claim. In case of the pendency of any receivership, administrative receivership, judicial management, insolvency, liquidation, bankruptcy, reorganization (by way of voluntary arrangement, schemes of arrangement or otherwise), arrangement, adjustment, composition or other judicial proceeding relative to any Loan Party, the Administrative Agent (irrespective of whether the principal of any Loan or L/C Obligation shall then be due and payable as herein expressed or by declaration or otherwise and irrespective of whether the Administrative Agent shall have made any demand on the Borrowers) shall be entitled and empowered (but not obligated), by intervention in such proceeding or otherwise:

(a) to file and prove a claim for the whole amount of the principal and interest owing and unpaid in respect of the Loans, L/C Obligations and all other Obligations that are owing and unpaid and to file such other documents as may be necessary or advisable in order to have the claims of the Lenders and the Agents (including any claim for the reasonable compensation, expenses, disbursements and advances of the Lenders and the Agents and their respective agents and counsel to the extent provided for herein and all other amounts due to the Lenders and the Agents under Sections 2.03(h) and (i), 2.09 and 10.04) allowed in such judicial proceeding; and

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(b) to collect and receive any monies or other property payable or deliverable on any such claims and to distribute the same;

and any administrator, administrative receiver, custodian, receiver, assignee, trustee, judicial manager, liquidator, sequestrator or other similar official in any such judicial proceeding is hereby authorized by each Lender and each Agent to make such payments to the Administrative Agent and, in the event that the Administrative Agent shall consent to the making of such payments directly to the Lenders, to pay to the Administrative Agent any amount due for the reasonable compensation, expenses, disbursements and advances of the Agents and their respective agents and counsel, and any other amounts, in each case, due to the Agents under Sections 2.09 and 10.04.

Nothing contained herein shall be deemed to authorize the Administrative Agent to authorize or consent to or accept or adopt on behalf of any Lender or any other Agent any plan of reorganization (by way of voluntary arrangement, schemes of arrangement or otherwise), arrangement, adjustment or composition affecting the Obligations or the rights of any Lender or any other Agent or to authorize the Administrative Agent to vote in respect of the claim of any Lender or any other Agent in any such proceeding.

Section 9.11 Collateral and Guaranty Matters. Except with respect to the exercise of setoff rights in accordance with Section 10.09 or as otherwise provided in Section 10.03(b) or with respect to a Secured Party's right to file a proof of claim in an insolvency proceeding, no Secured Party shall have any right individually to realize upon any of the Collateral or to enforce any Guarantee of the Obligations, it being understood and agreed that all powers, rights and remedies under the Loan Documents may be exercised solely by the Administrative Agent or Collateral Agent on behalf of the Secured Parties in accordance with the terms thereof. Each of the Lenders (including in their capacities as potential or actual Hedge Banks party to a Secured Hedge Agreement and potential or actual Cash Management Banks party to a Secured Cash Management Agreement), L/C Issuers and Agents hereby irrevocably:

(a) agree that the Liens granted to the Collateral Agent by the Loan Parties and the Grantors on any Collateral shall be immediately and automatically released, in each case, without any further action by any Person:

(i) upon the Date of Full Satisfaction;

(ii) upon the sale, disposition, distribution or other transfer of such Collateral as part of or in connection with any transaction permitted hereunder or under any other Loan Document, in each case to a Person that is not a Loan Party (or, in the case of the Disposition of Equity Interests of a Korean Subsidiary that are part of the Collateral, to a Person that is not a Loan Party or a Grantor);

(iii) subject to Section 10.01, if approved, authorized or ratified in writing by the Required Lenders;

(iv) to the extent such Collateral is or becomes Excluded Property as a result of an occurrence not prohibited hereunder;

(v) to the extent such Collateral is owned by a Subsidiary Guarantor, upon release of such Subsidiary Guarantor from its obligations hereunder and under its Guaranty pursuant to clause (c) below; and

(vi) to the extent such Collateral is owned by a Grantor, upon release of such Grantor from its obligations hereunder or under any other Loan Document pursuant to clause (d) below;

(b) authorize the Administrative Agent and the Collateral Agent, and each of the Administrative Agent and the Collateral Agent shall be required to, to the extent requested by any Borrower, release or subordinate any Lien on any property (and execute and deliver any release documentation required in connection therewith) granted to or held by the Administrative Agent or Collateral Agent under any Loan Document to the holder of any Permitted Lien on such property that is permitted by clauses (1), (4), (5), (6) (only with respect to Section 7.01(d)), (9), (11) (solely with respect to cash deposits), (16), (17) (other than with respect to self-insurance arrangements), (18) (solely to the extent constituting Excluded Property), (19), (21), (23) (solely to the extent relating to a lien of the type allowed pursuant to clause (9) or (11) (solely with respect to cash deposits) of the definition thereof), (26) (solely to the extent the Lien of the Collateral Agent on such property is not, pursuant to such agreements, permitted to be senior to or pari passu with such Liens), (29) (solely with respect to cash deposits), (34), (39) (only for so long as required to be secured for such letter of intent or investment), (45), (46), (48), and (49) (only for so long as required to be secured for purposes of such cash management arrangements) of the definition thereof, in each case, without the consent of any Secured Party or any other Person;

(c) agree that a Guarantor (other than the Parent Borrower) shall be immediately and automatically released from this Agreement and any applicable Guaranty and its obligations thereunder if such Person ceases to be a Restricted Subsidiary or otherwise becomes an Excluded Subsidiary as a result of a transaction or designation permitted hereunder; provided that no such release shall occur if such Guarantor continues to be a guarantor in respect of any Specified Refinancing Debt, any Refinancing Notes or any Incremental Equivalent Debt; provided, further, with respect to release of a Guarantor as a result of it ceasing to be a Wholly Owned Subsidiary of Parent Borrower, (i) after giving Pro Forma Effect to such release and the transaction resulting in such Person ceasing to be a Wholly Owned Subsidiary, such Person is no longer a Subsidiary of Parent Borrower, or (ii) the transaction resulting in such Person ceasing to be a Wholly Owned Subsidiary was made for a bona fide business purpose (it being understood that a bona fide business transaction is where such Person becomes a bona fide joint venture where the other person taking an equity interest in such Restricted Subsidiary is not an Affiliate of any Loan Party (other than as a result of such joint venture) and not for the primary purpose of releasing such Guarantor from the Guaranty and the other applicable Loan Documents);

(d) agree that a Grantor shall be immediately and automatically released from this Agreement and any applicable Loan Document and its obligations thereunder if such Person ceases to be a Restricted Subsidiary as a result of a transaction permitted hereunder; and

(e) authorize the Administrative Agent and the Collateral Agent, and each of the Administrative Agent and the Collateral Agent shall be required to, to the extent requested by any Borrower or to the extent provided for under this Agreement, establish intercreditor arrangements (including Applicable Intercreditor Arrangements) as contemplated by this Agreement.

Upon request by the Administrative Agent at any time, the Required Lenders will promptly confirm in writing the Administrative Agent's and the Collateral Agent's authority to release or subordinate its interest in particular types or items of property, or to release any Guarantor from its obligations under the Guaranty pursuant to this Section 9.11; provided that absent such confirmation in writing from the Required Lenders, the act of the Administrative Agent or the Collateral Agent making such request shall not prohibit the Administrative Agent or the Collateral Agent from releasing or subordinating its interests if such release

or subordination is made in accordance with this Section 9.11. In each case as specified in this Section 9.11, the Administrative Agent and the Collateral Agent will (and each Lender (including in their capacities as potential or actual Hedge Banks party to a Secured Hedge Agreement and potential or actual Cash Management Banks party to a Secured Cash Management Agreement), L/C Issuer and Agent irrevocably authorizes the Administrative Agent to), at the Borrowers' sole cost and expense, promptly execute and deliver to the applicable Loan Party or Grantor such documents as such Loan Party or Grantor may reasonably request to evidence the release or subordination of such item of Collateral from the assignment and security interest granted under the Collateral Documents, or to evidence the release of such Guarantor from its obligations under the Guaranty, in each case in accordance with the terms of the Loan Documents and this Section 9.11; provided that, with respect to the release pursuant to clauses (a)(ii), (iv), (v) or (vi) of this Section 9.11, if reasonably requested by the Administrative Agent, the Parent Borrower shall have delivered to the Administrative Agent a certificate of a Responsible Officer of Parent Borrower certifying that the release or subordination of such Collateral is permitted under the Loan Documents (and for the avoidance of doubt, no other documentation or information shall be required to be provided by the Borrowers or any Restricted Subsidiary). Each of the Collateral Agent and the Administrative Agent shall be entitled to rely and shall rely exclusively on such Responsible Officer's certification and the Collateral Agent and the Administrative Agent will be fully exculpated from any liability and shall be fully protected and shall not have any liability whatsoever to any Secured Party as a result of such reliance or the consummation of any release or subordination. Additionally, the Administrative Agent and Collateral Agent shall promptly return any possessory collateral to the Borrowers in connection with the releases of Collateral and Loan Parties and Grantors contemplated by this Section 9.11; provided that in the event that the Administrative Agent or the Collateral Agent loses or misplaces any possessory collateral delivered to the Administrative Agent or the Collateral Agent by any Loan Party or any Grantor, upon reasonable request of the Parent Borrower, the Administrative Agent or the Collateral Agent shall provide a loss affidavit to the Parent Borrower, in form and substance reasonably satisfactory to the Borrower Representative and the Administrative Agent.

Section 9.12 Other Agents: Arranger and Managers. None of the Lenders or other Persons identified on the facing page or signature pages of this Agreement as a "joint lead arranger," or "joint bookrunner" or "syndication agent" shall have any right, power, obligation, liability, responsibility or duty under this Agreement other than those applicable to all Lenders as such; provided that each Arranger shall be entitled to any express rights given to such Arranger under any Loan Document (including its rights to receive fees pursuant to the Fee Letters). Without limiting the foregoing, none of the Lenders or other Persons so identified shall have or be deemed to have any fiduciary relationship with any Lender. Each Lender acknowledges that it has not relied, and will not rely, on any of the Lenders or other Persons so identified in deciding to enter into this Agreement or in taking or not taking action hereunder.

Section 9.13 Secured Cash Management Agreements and Secured Hedge Agreements. No Cash Management Bank or Hedge Bank that obtains the benefits of Section 8.04, any Guaranty or any Collateral by virtue of the provisions hereof or of any Guaranty or any Collateral Document shall have any right to notice of any action or to consent to, direct or object to any action hereunder or under any other Loan Document or otherwise in respect of the Collateral (including the release or impairment of any Collateral) other than in its capacity as a Lender and, in such case, only to the extent expressly provided in the Loan Documents. Notwithstanding any other provision of this Article IX to the contrary, the Administrative Agent shall not be required to verify the payment of, or that other satisfactory arrangements have been made with respect to, Obligations arising under Secured Cash Management Agreements and Secured Hedge Agreements unless the Administrative Agent has received written notice of such Obligations, together with such supporting documentation as the Administrative Agent may request, from the applicable Cash Management Bank or Hedge Bank, as the case may be. By accepting the benefits of the Collateral, each Secured Party that is a party to any such arrangement in respect of Secured Cash Management Agreements or Secured Hedge Agreement, as applicable, shall be deemed to have appointed the Administrative Agent

to serve as administrative agent under the Loan Documents, and shall be deemed to have appointed the Collateral Agent to serve as collateral agent under the Loan Documents and agreed to be bound by the Loan Documents as a Secured Party thereunder, subject to the limitations set forth in this paragraph.

Section 9.14 Appointment of Supplemental Agents, Incremental Arrangers, Incremental Equivalent Debt Arrangers and Specified Refinancing Agents.

(a) It is the purpose of this Agreement and the other Loan Documents that there shall be no violation of any Law of any jurisdiction denying or restricting the right of banking corporations or associations to transact business as agent or trustee in such jurisdiction. It is recognized that in case of litigation under this Agreement or any of the other Loan Documents, and in particular in case of the enforcement of any of the Loan Documents, or in case the Administrative Agent or the Collateral Agent deems that by reason of any present or future Law of any jurisdiction it may not exercise any of the rights, powers or remedies granted herein or in any of the other Loan Documents or take any other action which may be desirable or necessary in connection therewith, the Administrative Agent and the Collateral Agent are hereby authorized, to appoint an additional individual or institution selected by them in their sole discretion as a separate trustee, co-trustee, administrative agent, collateral agent, administrative sub-agent or administrative co-agent, as applicable (any such additional individual or institution being referred to herein individually as a "Supplemental Agent" and collectively as "Supplemental Agents").

(b) In the event that the Administrative Agent or the Collateral Agent appoints a Supplemental Agent with respect to any Collateral, (i) each and every right, power, privilege or duty expressed or intended by this Agreement or any of the other Loan Documents to be exercised by or vested in or conveyed to the Administrative Agent or the Collateral Agent with respect to such Collateral shall be exercisable by and vest in such Supplemental Agent to the extent, and only to the extent, necessary to enable such Supplemental Agent to exercise such rights, powers and privileges with respect to such Collateral and to perform such duties with respect to such Collateral, and every covenant and obligation contained in the Loan Documents and necessary to the exercise or performance thereof by such Supplemental Agent shall run to and be enforceable by either the Administrative Agent and the Collateral Agent or such Supplemental Agent, and (ii) the provisions of this Article IX and of Sections 10.04 and 10.05 (obligating the Borrowers to pay the Administrative Agent's and the Collateral Agent's expenses and to indemnify the Administrative Agent and the Collateral Agent) that refer to the Administrative Agent and/or the Collateral Agent shall inure to the benefit of such Supplemental Agent and all references therein to the Administrative Agent and/or Collateral Agent shall be deemed to be references to the Administrative Agent and/or Collateral Agent and/or such Supplemental Agent, as the context may require.

(c) Should any instrument in writing from the Borrowers or any other Loan Party or any Grantor be required by any Supplemental Agent so appointed by the Administrative Agent or the Collateral Agent for more fully and certainly vesting in and confirming to him or it such rights, powers, privileges and duties, the Borrowers shall, or shall cause such Loan Party or Grantor to, execute, acknowledge and deliver any and all such instruments promptly upon request by the Administrative Agent or the Collateral Agent. In case any Supplemental Agent, or a successor thereto, shall die, become incapable of acting, resign or be removed, all the rights, powers, privileges and duties of such Supplemental Agent, to the extent permitted by Law, shall vest in and be exercised by the Administrative Agent or the Collateral Agent, as applicable, until the appointment of a new applicable Supplemental Agent.

Section 9.15 Intercreditor Agreement. The Administrative Agent and the Collateral Agent are authorized by the Lenders and each other Secured Party to, to the extent required by the terms of the Loan Documents, (i) enter into any intercreditor agreement (including the Intercreditor Agreement and any other Applicable Intercreditor Arrangement) contemplated by this Agreement, (ii) enter into any Collateral Document, or (iii) make or consent to any filings or take any other actions in connection therewith (and any



amendments, amendments and restatements, restatements or waivers of or supplements to or other modifications to, such agreements in connection with the incurrence by any Loan Party of any Indebtedness of such Loan Party that is permitted to be secured pursuant to Sections 7.01 and 7.02 of this Agreement, in order to permit such Indebtedness to be secured by a valid, perfected lien on the Collateral (with such priority as may be designated by such Loan Party, to the extent such priority is permitted by the Loan Documents)), and the parties hereto acknowledge that any intercreditor agreement, Collateral Document, consent, filing or other action will be binding upon them. Each Lender and each other Secured Party (a) hereby agrees that it will be bound by and will take no actions contrary to the provisions of any Applicable Intercreditor Arrangement (if entered into) and (b) hereby authorizes and instructs the Administrative Agent and the Collateral Agent to enter into any intercreditor agreement (including the Intercreditor Agreement and any other Applicable Intercreditor Arrangement) contemplated by this Agreement or Collateral Document (and any amendments, amendments and restatements, restatements or waivers of or supplements to or other modifications to, such agreements in connection with the incurrence by any Loan Party of any Indebtedness of such Loan Party that is permitted to be secured pursuant to Sections 7.01 and 7.02 of this Agreement, in order to permit such Indebtedness to be secured by a valid, perfected lien on the Collateral (with such priority as may be designated by such Loan Party, to the extent such priority is permitted by the Loan Documents)), and to subject the Liens on the Collateral securing the Obligations to the provisions thereof. Without limitation of the foregoing, if an intercreditor agreement shall be posted to the Lenders not less than five (5) Business Days before execution thereof and, if the Required Lenders shall not have objected to such changes within five (5) Business Days after such posting, then the Required Lenders shall be deemed (x) to have agreed that the Administrative Agent entry into such intercreditor agreement is reasonable and to have consented to such intercreditor agreement and to the Administrative Agent's execution thereof and (y) to have directed the Administrative Agent to execute such agreement.

Section 9.16 Acknowledgment Regarding any Supported QFCs. To the extent that the Loan Documents provide support, through a guarantee or otherwise, for Swap Contracts or any other agreement or instrument that is a QFC (such support "QFC Credit Support" and each such QFC a "Supported QFC"), the parties acknowledge and agree as follows with respect to the resolution power of the Federal Deposit Insurance Corporation under the Federal Deposit Insurance Act and Title II of the Dodd-Frank Wall Street Reform and Consumer Protection Act (together with the regulations promulgated thereunder, the "U.S. Special Resolution Regimes") in respect of such Supported QFC and QFC Credit Support (with the provisions below applicable notwithstanding that the Loan Documents and any Supported QFC may in fact be stated to be governed by the laws of the State of New York and/or of the United States or any other state of the United States):

In the event a Covered Entity that is party to a Supported QFC (each, a "Covered Party") becomes subject to a proceeding under a U.S. Special Resolution Regime, the transfer of such Supported QFC and the benefit of such QFC Credit Support (and any interest and obligation in or under such Supported QFC and such QFC Credit Support, and any rights in property securing such Supported QFC or such QFC Credit Support) from such Covered Party will be effective to the same extent as the transfer would be effective under the U.S. Special Resolution Regime if the Supported QFC and such QFC Credit Support (and any such interest, obligation and rights in property) were governed by the laws of the United States or a state of the United States. In the event a Covered Party or a BHC Act Affiliate of a Covered Party becomes subject to a proceeding under a U.S. Special Resolution Regime, Default Rights under the Loan Documents that might otherwise apply to such Supported QFC or any QFC Credit Support that may be exercised against such Covered Party are permitted to be exercised to no greater extent than such Default Rights could be exercised under the U.S. Special Resolution Regime if the Supported QFC and the Loan Documents were governed by the laws of the United States or a state of the United States. Without limitation of the foregoing, it is understood and agreed that rights and remedies of the parties with respect to a Defaulting Lender shall in no event affect the rights of any Covered Party with respect to a Supported QFC or any QFC Credit Support.

Section 9.17 Credit Bidding. The Secured Parties hereby irrevocably authorize the Administrative Agent, at the direction of the Required Lenders, to credit bid all or any portion of the Secured Obligations (including by accepting some or all of the Collateral in satisfaction of some or all of the Secured Obligations pursuant to a deed in lieu of foreclosure or otherwise) and in such manner purchase (either directly or through one or more acquisition vehicles) all or any portion of the Collateral (a) at any sale thereof conducted under the provisions of the Bankruptcy Code of the United States, including under Sections 363, 1123 or 1129 of the Bankruptcy Code of the United States, or any similar laws in any other jurisdictions to which a Loan Party or Grantor is subject, or (b) at any other sale, foreclosure or acceptance of collateral in lieu of debt conducted by (or with the consent or at the direction of) the Administrative Agent (whether by judicial action or otherwise) in accordance with any applicable law. In connection with any such credit bid and purchase, the Secured Obligations owed to the Secured Parties shall be entitled to be, and shall be, credit bid by the Administrative Agent at the direction of the Required Lenders on a ratable basis (with Secured Obligations with respect to contingent or unliquidated claims, to the extent such claims are entitled to a recovery under applicable law, receiving contingent interests in the acquired assets on a ratable basis that shall vest upon the liquidation of such claims in an amount proportional to the liquidated portion of the contingent claim amount used in allocating the contingent interests) for the asset or assets so purchased (or for the equity interests or debt instruments of the acquisition vehicle or vehicles that are issued in connection with such purchase). In connection with any such bid, (i) the Administrative Agent shall be authorized to form one or more acquisition vehicles and to assign any successful credit bid to such acquisition vehicle or vehicles, (ii) each of the Secured Parties' ratable interests in the Secured Obligations which were credit bid shall be deemed without any further action under this Agreement to be assigned to such vehicle or vehicles for the purpose of closing such sale, (iii) the Administrative Agent shall be authorized to adopt documents providing for the governance of the acquisition vehicle or vehicles (provided that any actions by the Administrative Agent with respect to such acquisition vehicle or vehicles, including any disposition of the assets or equity interests thereof, shall be governed, directly or indirectly, by, and the governing documents shall provide for, control by the vote of the Required Lenders or their permitted assignees under the terms of this Agreement or the governing documents of the applicable acquisition vehicle or vehicles, as the case may be, irrespective of the termination of this Agreement and without giving effect to the limitations on actions by the Required Lenders contained in Section 10.01 of this Agreement), (iv) the Administrative Agent on behalf of such acquisition vehicle or vehicles shall be authorized to issue to each of the Secured Parties, ratably on account of the relevant Secured Obligations which were credit bid, interests, whether as equity, partnership interests, limited partnership interests or membership interests, in any such acquisition vehicle and/or debt instruments issued by such acquisition vehicle, all without the need for any Secured Party or acquisition vehicle to take any further action, and (v) to the extent that Secured Obligations that are assigned to an acquisition vehicle are not used to acquire Collateral for any reason (as a result of another bid being higher or better, because the amount of Secured Obligations assigned to the acquisition vehicle exceeds the amount of Secured Obligations credit bid by the acquisition vehicle or otherwise), such Secured Obligations shall automatically be reassigned to the Secured Parties pro rata with their original interest in such Secured Obligations and the equity interests and/or debt instruments issued by any acquisition vehicle on account of such Secured Obligations shall automatically be cancelled, without the need for any Secured Party or any acquisition vehicle to take any further action. Notwithstanding that the ratable portion of the Secured Obligations of each Secured Party are deemed assigned to the acquisition vehicle or vehicles as set forth in clause (ii) above, each Secured Party shall execute such documents and provide such information regarding the Secured Party (and/or any designee of the Secured Party which will receive interests in or debt instruments issued by such acquisition vehicle) as the Administrative Agent may reasonably request in connection with the formation of any acquisition vehicle, the formulation or submission of any credit bid or the consummation of the transactions contemplated by such credit bid.

Section 9.18 Certain ERISA Matters. (a) Each Lender (x) represents and warrants, as of the date such Person became a Lender party hereto, to, and (y) covenants, from the date such Person became a Lender party hereto to the date such Person ceases being a Lender party hereto, for the benefit of, the Administrative Agent, the Collateral Agent and each Arranger and their respective Affiliates, and not, for the avoidance of doubt, to or for the benefit of any Borrower or any other Loan Party or Grantor, that at least one of the following is and will be true:

(i) such Lender is not using “plan assets” (within the meaning of the Plan Asset Regulations) of one or more Benefit Plans with respect to such Lender’s entrance into, participation in, administration of and performance of the Loans, the Letters of Credit, the Commitments or this Agreement,

(ii) the transaction exemption set forth in one or more PTEs, such as PTE 84-14 (a class exemption for certain transactions determined by independent qualified professional asset managers), PTE 95-60 (a class exemption for certain transactions involving insurance company general accounts), PTE 90-1 (a class exemption for certain transactions involving insurance company pooled separate accounts), PTE 91-38 (a class exemption for certain transactions involving bank collective investment funds) or PTE 96-23 (a class exemption for certain transactions determined by in-house asset managers), is applicable with respect to such Lender’s entrance into, participation in, administration of and performance of the Loans, the Letters of Credit, the Commitments and this Agreement,

(iii) (A) such Lender is an investment fund managed by a “Qualified Professional Asset Manager” (within the meaning of Part VI of PTE 84-14), (B) such Qualified Professional Asset Manager made the investment decision on behalf of such Lender to enter into, participate in, administer and perform the Loans, the Letters of Credit, the Commitments and this Agreement, (C) the entrance into, participation in, administration of and performance of the Loans, the Letters of Credit, the Commitments and this Agreement satisfies the requirements of sub-sections (b) through (g) and (k) of Part I of PTE 84-14 and (D) to the best knowledge of such Lender, the requirements of subsection (a) of Part I of PTE 84-14 are satisfied with respect to such Lender’s entrance into, participation in, administration of and performance of the Loans, the Letters of Credit, the Commitments and this Agreement, or

(iv) such other representation, warranty and covenant as may be agreed in writing between the Administrative Agent, in its sole discretion, and such Lender.

(b) In addition, unless sub-clause (i) in the immediately preceding clause (a) is true with respect to a Lender or such Lender has provided another representation, warranty and covenant as provided in sub-clause (iv) in the immediately preceding clause (a), such Lender further (x) represents and warrants, as of the date such Person became a Lender party hereto, to, and (y) covenants, from the date such Person became a Lender party hereto to the date such Person ceases being a Lender party hereto, for the benefit of, the Administrative Agent, the Collateral Agent and each Arranger and their respective Affiliates, and not, for the avoidance of doubt, to or for the benefit of any Borrower or any other Loan Party or Grantor, that none of the Administrative Agent, the Collateral Agent, any Arranger or any of their respective Affiliates is a fiduciary with respect to the Collateral or the assets of such Lender (including in connection with the reservation or exercise of any rights by the Administrative Agent or the Collateral Agent under this Agreement, any Loan Document or any documents related to hereto or thereto).

(c) The Administrative Agent, the Collateral Agent and each Arranger hereby informs the Lenders that each such Person is not undertaking to provide investment advice or to give advice in a fiduciary capacity, in connection with the transactions contemplated hereby, and that such Person has a financial interest in the transactions contemplated hereby in that such Person or an Affiliate thereof (i) may receive interest or other payments with respect to the Loans, the Letters of Credit, the Commitments, this Agreement and any other Loan Documents (ii) may recognize a gain if it extended the Loans, the Letters

of Credit or the Commitments for an amount less than the amount being paid for an interest in the Loans, the Letters of Credit or the Commitments by such Lender or (iii) may receive fees or other payments in connection with the transactions contemplated hereby, the Loan Documents or otherwise, including structuring fees, commitment fees, arrangement fees, facility fees, upfront fees, underwriting fees, ticking fees, agency fees, administrative agent or collateral agent fees, utilization fees, minimum usage fees, letter of credit fees, fronting fees, deal-away or alternate transaction fees, amendment fees, processing fees, term out premiums, banker's acceptance fees, breakage or other early termination fees or fees similar to the foregoing.

(d) For purposes of this Section 9.18, (i) "Benefit Plan" means any of (A) an "employee benefit plan" (as defined in Section 3(3) of ERISA) that is subject to Title I of ERISA, (B) a "plan" as defined in Section 4975 of the Code applies, and (C) any Person whose assets include (for purposes of the Plan Asset Regulations or otherwise for purposes of Title I of ERISA or Section 4975 of the Code) the assets of any such "employee benefit plan" or "plan" and (ii) "Plan Asset Regulation" means 29 CFR § 2510.3-101 et seq., as modified by Section 3(42) of ERISA, as amended from time to time.

Section 9.19 Know Your Customer Information. Each Secured Party shall, promptly following a request by the Administrative Agent, provide all documentation and other information that the Administrative Agent reasonably requests in order to comply with its ongoing obligations under applicable "know your customer" and anti-money laundering rules and regulations, including the PATRIOT Act.

## **ARTICLE X**

### **MISCELLANEOUS**

Section 10.01 Amendments, Etc. Except as otherwise expressly set forth in this Agreement or the applicable Loan Document, no amendment or waiver of any provision of this Agreement or any other Loan Document, and no consent to any departure by the Parent Borrower or any other Loan Party or Grantor therefrom, shall be effective unless in writing signed by the Required Lenders (or by the Administrative Agent at the instruction of the Required Lenders) and the Parent Borrower or the applicable Loan Party or the applicable Grantor, as the case may be (other than with respect to any amendment or waiver contemplated in clause (h) below, which shall only require the consent of the Required Revolving Lenders), and each such amendment, waiver or consent shall be effective only in the specific instance and for the specific purpose for which given; provided, however, that no such amendment, waiver or consent shall:

(a) extend or increase the Commitment of any Lender, or reinstate the Commitment of any Lender after the termination of such Commitment pursuant to Section 8.02, in each case without the written consent of such Lender (it being understood that a waiver of any condition precedent set forth in Sections 4.02 or the waiver of (or amendment to the terms of) any Default or Event of Default, mandatory prepayment or mandatory reduction of the Commitments shall not constitute an extension or increase of any Commitment of any Lender);

(b) subject to Section 3.04, postpone any date scheduled for any payment of principal of, or interest on, any Loan or L/C Borrowing or any fees or other amounts payable hereunder, without the written consent of each Lender directly and adversely affected thereby (and subject to such further requirements as may be applicable thereto under Section 2.22), it being understood that the waiver of any obligation to pay interest at the Default Rate, or the amendment or waiver of any mandatory prepayment shall not constitute a postponement of any date scheduled for the payment of principal, interest or fees;

(c) reduce the principal of, or the rate of interest specified herein on, or the amount of any payment of principal of, or interest on, any Loan or L/C Borrowing (it being understood that a waiver of any Default or Event of Default or mandatory prepayment shall not constitute a reduction or forgiveness of

principal), or any fees or other amounts payable hereunder or under any other Loan Document without the written consent of each Lender directly and adversely affected thereby, it being understood that any change to the definition of Consolidated First Lien Net Leverage Ratio or in the component definitions thereof or any change to the MFN Provision or the MFN Exceptions shall not constitute a reduction in any rate of interest or any fees based thereon; provided, however, that only the consent of (x) the Majority Lenders with respect to any applicable Tranche shall be necessary to amend the definition of “Default Rate” as applicable to such Tranche and (y) the Majority Lenders with respect to any applicable Tranche shall be necessary to waive any obligation of the Borrowers to pay interest at the Default Rate with respect to such applicable Tranche;

(d) change the currency in which any Loan is denominated without the written consent of each Lender holding such Loans or change the provisions relating to re-denomination of any Loan without the written consent of each Lender holding such Loan;

(e) change (i) any provision of this Section 10.01, or the definition of “Required Lenders” or any other provision hereof specifying the number or percentage of Lenders or portion of the Loans or Commitments required to amend, waive or otherwise modify any rights hereunder or make any determination or grant any consent hereunder (other than the definition specified in clause (ii) of this Section 10.01(e) or modifications in connection with repurchases of Term Loans, amendments with respect to New Loan Commitments and amendments with respect to extensions of maturity, which shall only require the written consent of each Lender directly and adversely affected thereby), without the written consent of each Lender, (ii) the definition of “Required Revolving Lenders,” without the written consent of each Lender under the applicable Revolving Credit Facility or (iii) the definition of “Majority Lenders” with respect to any Tranche without the written consent of each Lender under such Tranche;

(f) other than in a transaction permitted under Section 7.03 or Section 7.04, release all or substantially all of the Liens on the Collateral in any transaction or series of related transactions, without the written consent of each Lender;

(g) other than in a transaction permitted under Section 7.03 or Section 7.04, release all or substantially all of the aggregate value of the Guaranty, or all or substantially all of the Guarantors, without the written consent of each Lender;

(h) (i) amend or otherwise modify Section 7.08 (or for the purposes of determining compliance with any Financial Covenant set forth therein, any defined terms used therein) or Section 4.02, (ii) waive or consent to any Default or Event of Default resulting from a breach of Section 7.08 or (iii) alter the rights or remedies of the Required Revolving Lenders arising pursuant to Article VIII as a result of a breach of Section 7.08, in each case, without the written consent of the Required Revolving Lenders (other than any Defaulting Lender); provided, however, that the amendments, modifications, waivers and consents described in this clause (h) shall not require the consent of any Lenders other than the Required Revolving Lenders;

(i) (i) change Section 2.06(c), Section 2.12(f) or (g) or Section 2.13, the definition of “Pro Rata Share” or any other provision in another Loan Document in a manner that would alter the ratable reduction of Commitments or the pro rata sharing of payments required thereby, without the written consent of each Lender or (ii) change the payment waterfall provisions of Section 2.12(f) or (g) or Section 8.04 or in any other Loan Document without the written consent of each Lender; or

(j) (i) subordinate in priority all or substantially all of the Liens securing the Secured Obligations under the Loan Documents to Liens securing any other Indebtedness without the written consent of each Lender directly affected thereby, or (ii) subordinate in right of payment the Secured Obligations under the Loan Documents to any other Indebtedness without the written consent of each

Lender directly affected thereby, in each case of the foregoing (i) and (ii), other than (A) any Indebtedness that is expressly permitted by the Loan Documents as in effect on the Closing Date to either be senior in right of payment to the Obligations or be secured by a Lien on the Collateral that is senior to the Liens securing the Obligations, (B) any “debtor-in-possession” facility or (C) any other Indebtedness, so long as such Indebtedness is offered ratably to all Lenders on the same terms and conditions and Lenders are afforded a bona fide opportunity to participate;

and provided, further, that (1) no amendment, waiver or consent shall, unless in writing and signed by an L/C Issuer in addition to the Borrowers and the Lenders required above, affect the rights or duties of such L/C Issuer, in its capacity as such, under this Agreement or any Letter of Credit Application or other Issuer Document relating to any Letter of Credit issued or to be issued by it; (2) no amendment, waiver or consent shall, unless in writing and signed by the Administrative Agent and the Collateral Agent in its capacity as such, in addition to the Borrowers and the Lenders required above, affect the rights or duties of, or any fees or other amounts payable to, the Administrative Agent or the Collateral Agent under this Agreement or any other Loan Document; (3) Section 10.07(g) may not be amended, waived or otherwise modified without the consent of each Granting Lender all or any part of whose Loans are being funded by an SPC at the time of such amendment, waiver or other modification; and (4) the Fee Letters and any other fee letter may be amended, or the rights or privileges thereunder waived, in a writing executed only by the parties thereto. Notwithstanding anything to the contrary herein, any amendment, modification, waiver or other action which by its terms requires the consent of all Lenders or each affected Lender may be effected with the consent of the applicable Lenders other than Defaulting Lenders, except that (x) no amendment, waiver or consent relating to Section 10.01(a), (b) or (c) may be effected, in each case without the consent of such Defaulting Lender and (y) any amendment, modification, waiver or other action that by its terms adversely affects any Defaulting Lender in its capacity as a Lender in a manner that differs in any material respect from, and is more adverse to such Defaulting Lender than it is to, other affected Lenders shall require the consent of such Defaulting Lender. Notwithstanding anything to the contrary herein, (I) any waiver, amendment, modification or consent in respect of this Agreement or any other Loan Document that by its terms affects the rights or duties under this Agreement or any other Loan Document of Lenders holding Loans or Commitments of a particular Tranche (but not the Lenders holding Loans or Commitments of any other Tranche), including those transactions described in clauses (a) through (c) of this Section 10.01, may be effected by an agreement or agreements in writing entered into by the Borrowers and the requisite percentage in interest of the Lenders with respect to such Tranche that would be required to consent thereto under this Section 10.01 and (II) to the extent any Lender under any New Revolving Facility has elected to not receive the benefit of the Financial Covenant, the New Revolving Commitments and New Revolving Loans, as applicable, of such Lender shall be excluded in calculating the votes of any “Required Revolving Lenders” and/or “Majority Lenders”, as applicable, for purposes of Section 10.01(h), Section 8.01(b), or Section 8.02.

This Section 10.01 shall be subject to any contrary provision of Section 1.15, Section 2.14, Section 2.18, Section 2.22 or Section 3.04. In addition, notwithstanding anything else to the contrary contained in this Section 10.01, (a) amendments and modifications that benefit existing Lenders (including in connection with the transactions provided for by Section 2.14, Section 2.18 or Section 2.22) may be effected without such Lenders’ consent, (b) if the Administrative Agent and the Borrowers shall have jointly identified an obvious error or any error, ambiguity or omission, defect or inconsistency of a technical nature, in each case, in any provision of the Loan Documents, then the Administrative Agent and the Borrowers shall be permitted to amend such provision, and (c) the Administrative Agent and the Borrowers shall be permitted to amend any provision of any Collateral Document, the Guaranty, or enter into any new agreement or instrument, to be consistent with this Agreement and the other Loan Documents or as required by or as may be desirable under local law to give effect to any guaranty, or to give effect to or to protect any security interest for the benefit of the Secured Parties, in any property so that the security interests comply with applicable Law, and in each case, such amendments, documents and agreements shall become effective without any further action or consent of any other party to any Loan Document.

Notwithstanding anything to the contrary herein, in connection with any determination as to whether the requisite Lenders have (A) consented (or not consented) to any amendment, modification or waiver of any provision of this Agreement or any other Loan Document or any departure by the Parent Borrower or any Subsidiary therefrom, (B) otherwise acted on any matter related to this Agreement or any Loan Document or (C) directed or required the Administrative Agent or any Lender to undertake any action (or refrain from taking any action) with respect to, or under, this Agreement or any Loan Document, any Lender (other than any Lender that is a (x) Regulated Bank Lender, (y) Revolving Credit Lender or (z) any Affiliate of the foregoing) that, as a result of its interest in any total return swap, total rate of return swap, credit default swap or other derivative contract (other than any such total return swap, total rate of return swap, credit default swap or other derivative contract entered into pursuant to bona fide market making activities), has a net short position with respect to any of the Loans or Commitments or with respect to any other tranche, class or series of Indebtedness for borrowed money incurred or issued by the Parent Borrower or any of its Subsidiaries at such time of determination (including commitments with respect to any revolving credit facility) (each such item of Indebtedness, including the Loan and Commitments, "Specified Indebtedness") (each such Lender, a "Net Short Lender") shall have no right to vote with respect to any amendment, modification or waiver of this Agreement or any other Loan Documents and shall be deemed to have voted its interest as a Lender without discretion in the same proportion as the allocation of voting with respect to such matter by Lenders who are not Net Short Lenders (including in any plan of reorganization). For purposes of determining whether a Lender (alone or together with its Affiliates) has a "net short position" on any date of determination: (i) derivative contracts with respect to any Specified Indebtedness and such contracts that are the functional equivalent thereof shall be counted at the notional amount of such contract in Dollars, (ii) notional amounts in other currencies shall be converted to the Dollar equivalent thereof by such Lender in a commercially reasonable manner consistent with generally accepted financial practices and based on the prevailing conversion rate (determined on a mid-market basis) on the date of determination, (iii) derivative contracts in respect of an index that includes the Parent Borrower or any Subsidiary or any instrument issued or guaranteed by the Parent Borrower or any Subsidiary shall not be deemed to create a short position with respect to such Specified Indebtedness, so long as (x) such index is not created, designed, administered or requested by such Lender and (y) the Parent Borrower and the Subsidiaries and any instrument issued or guaranteed by the Parent Borrower or the Subsidiaries, collectively, shall represent less than 5% of the components of such index, (iv) derivative transactions that are documented using either the 2014 ISDA Credit Derivatives Definitions or the 2003 ISDA Credit Derivatives Definitions (collectively, the "ISDA CDS Definitions") shall be deemed to create a short position with respect to the relevant Specified Indebtedness if such Lender is a protection buyer or the equivalent thereof for such derivative transaction and (x) the relevant Specified Indebtedness is a "Reference Obligation" under the terms of such derivative transaction (whether specified by name in the related documentation, included as a "Standard Reference Obligation" on the most recent list published by IHS Markit, if "Standard Reference Obligation" is specified as applicable in the relevant documentation or in any other manner), (y) the relevant Specified Indebtedness would be a "Deliverable Obligation" under the terms of such derivative transaction or (z) the Parent Borrower or any Subsidiary is designated as a "Reference Entity" under the terms of such derivative transaction and (v) credit derivative transactions or other derivatives transactions not documented using the ISDA CDS Definitions shall be deemed to create a short position with respect to any Specified Indebtedness if such transactions offer the Lender protection against a decline in the value of such Specified Indebtedness, or in the credit quality of the Parent Borrower or any Subsidiary, in each case, other than as part of an index so long as (x) such index is not created, designed, administered or requested by such Lender and (y) the Parent Borrower and the Subsidiaries, and any instrument issued or guaranteed by the Parent Borrower or the Subsidiaries, collectively, shall represent less than 5% of the components of such index. In connection with any such amendment, modification or waiver of this Agreement or the other Loan Documents, each Lender (other than any Lender that is a (x)

Regulated Bank Lender, (y) Revolving Credit Lender or (z) any Affiliate of the foregoing) will be deemed to have represented to the Parent Borrower and the Administrative Agent that it does not constitute a Net Short Lender, in each case, unless such Lender shall have notified the Parent Borrower and the Administrative Agent prior to the requested response date with respect to such amendment, modification or waiver that it constitutes a Net Short Lender (it being understood and agreed that the Parent Borrower and the Administrative Agent shall be entitled to rely conclusively on each such representation and deemed representation). The Administrative Agent shall not be responsible or have any liability for, or have any duty to ascertain, inquire into, monitor or enforce, compliance with the provisions hereof relating to Net Short Lenders. Without limiting the generality of the foregoing, the Administrative Agent shall not (x) be obligated to ascertain, monitor or inquire as to whether any Lender or participant or prospective Lender or participant is a Net Short Lender or (y) have any liability with respect to or arising out of the voting in any amendment or waiver to any Loan Document by any Net Short Lender.

Notwithstanding anything to the contrary herein, for purposes of determining compliance with the conditions specified in Section 4.01, each Lender that has signed this Agreement shall be deemed to have consented to, approved or accepted or to be satisfied with, each document or other matter required thereunder to be consented to or approved by or acceptable or satisfactory to a Lender unless the Administrative Agent shall have received notice from such Lender prior to the proposed Closing Date, specifying its objection thereto.

Section 10.02 Notices; Electronic Communications.

(a) General. Unless otherwise expressly provided herein, all notices and other communications provided for herein shall be in writing and shall be delivered by hand or overnight courier service, mailed by certified or registered mail or sent by email as follows, and all notices and other communications expressly permitted hereunder to be given by telephone shall be made to the applicable telephone number, as follows:

(i) if to the Borrowers, the Administrative Agent, the Collateral Agent or an L/C Issuer, to the address, electronic mail address or telephone number specified for such Person on Schedule 10.02 or to such other address, electronic mail address or telephone number as shall be designated by such party in a notice to the Borrower Representative and the Administrative Agent, as provided in Section 10.02(d); and

(ii) if to any other Lender, to the address, electronic mail address or telephone number specified in its Administrative Questionnaire.

Notices and other communications sent by hand or overnight courier service, or mailed by certified or registered mail, shall be deemed to have been given when received; notices and other communications sent by email shall be deemed to have been given when sent (except that, if not given during normal business hours for the recipient, shall be deemed to have been given at the opening of business on the next Business Day for the recipient). Notices and other communications delivered through electronic communications to the extent provided in clause (b) below shall be effective as provided in such clause (b).

(b) Electronic Communications. Notices and other communications to the Lenders and the L/C Issuers hereunder may be delivered or furnished by electronic communication (including e-mail and Internet or intranet websites) pursuant to procedures approved by the Administrative Agent; provided that the foregoing shall not apply to notices to any Lender or any L/C Issuer pursuant to Article II if such Lender or such L/C Issuer, as applicable, has notified the Administrative Agent that it is incapable of receiving, or is unwilling to receive, notices under Article II by electronic communication. The Administrative Agent or any Borrower may, in its discretion, agree to accept notices and other communications to it hereunder by electronic communications pursuant to procedures approved by it; provided that approval of such procedures may be limited to particular notices or communications.



Unless the Administrative Agent otherwise prescribes (with the Borrowers' consent), (x) notices and other communications sent to an e-mail address shall be deemed received upon the sender's receipt of an acknowledgment from the intended recipient (such as by the "return receipt requested" function, as available, return e-mail or other written acknowledgment); provided that if such notice or other communication is not sent during the normal business hours of the recipient, such notice or communication shall be deemed to have been sent at the opening of business on the next Business Day for the recipient, and (y) notices or communications posted to an Internet or intranet website shall be deemed received upon the deemed receipt by the intended recipient at its e-mail address as described in the foregoing clause (x) of notification that such notice or communication is available and identifying the website address therefor.

(c) The Platform. THE PLATFORM IS PROVIDED "AS IS" AND "AS AVAILABLE." THE AGENT-RELATED PERSONS DO NOT WARRANT THE ACCURACY OR COMPLETENESS OF THE BORROWER MATERIALS OR THE ADEQUACY OF THE PLATFORM, AND EXPRESSLY DISCLAIM LIABILITY FOR ERRORS IN OR OMISSIONS FROM THE BORROWER MATERIALS. NO WARRANTY OF ANY KIND, EXPRESS, IMPLIED OR STATUTORY, INCLUDING ANY WARRANTY OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, NON-INFRINGEMENT OF THIRD-PARTY RIGHTS OR FREEDOM FROM VIRUSES OR OTHER CODE DEFECTS, IS MADE BY ANY AGENT-RELATED PERSON IN CONNECTION WITH THE BORROWER MATERIALS OR THE PLATFORM. In no event shall any Agent-Related Person have any liability to any Loan Party or any of their respective Subsidiaries, any Lender, any L/C Issuer or any other Person for losses, claims, damages, liabilities or expenses of any kind (whether in tort, contract or otherwise), arising out of any Borrower's or the Administrative Agent's transmission of Borrower Materials through the Internet, except to the extent that such losses, claims, damages, liabilities or expenses are determined by a court of competent jurisdiction by a final and non-appealable judgment to have resulted from the gross negligence, bad faith or willful misconduct of such Agent-Related Person; provided, however, that in no event shall any Agent-Related Person have any liability to any Loan Party or any of their respective Subsidiaries, any Lender, any L/C Issuer or any other Person for indirect, special, incidental, consequential or punitive damages (as opposed to direct or actual damages).

(d) Change of Address, Etc. Each of the Loan Parties and the Grantors, the Administrative Agent, the Collateral Agent and each L/C Issuer may change its address, telephone number or electronic mail address for notices and other communications hereunder by notice to the Borrower Representative and the Administrative Agent. Each other Lender may change its address, telephone number or electronic mail address for notices and other communications hereunder by notice to the Borrower Representative, the Administrative Agent and, in the case of a Revolving Credit Lender, each L/C Issuer. In addition, each Lender agrees to notify the Administrative Agent from time to time to ensure that the Administrative Agent has on record (i) an effective address, contact name, telephone number and electronic mail address to which notices and other communications may be sent and (ii) accurate wire instructions for such Lender. Furthermore, each Public Lender agrees to cause at least one individual at or on behalf of such Public Lender to at all times have selected the "Private Side Information" or similar designation on the content declaration screen of the Platform in order to enable such Public Lender or its delegate, in accordance with such Public Lender's compliance procedures and applicable Law, including United States federal and state securities Laws, to make reference to Borrower Materials that are not made available through the "Public Side Information" portion of the Platform and that may contain material non-public information with respect to the Borrowers or their securities for purposes of United States federal or state securities laws.

(e) Reliance by Administrative Agent, Collateral Agent, L/C Issuer and Lenders. The Administrative Agent, the Collateral Agent, the L/C Issuers and the Lenders shall be entitled to rely and act upon any notices (including telephonic Committed Loan Notices) purportedly given by or on behalf of any of the Borrowers even if (i) such notices were not made in a manner specified herein, were incomplete or were not preceded or followed by any other form of notice specified herein, or (ii) the terms thereof, as understood by the recipient, varied from any confirmation thereof except to the extent such reliance is deemed to be gross negligence, bad faith or willful misconduct of the Administrative Agent, Collateral Agent, L/C Issuer or Lender (as applicable) in a final non-appealable judgment of a court of competent jurisdiction. The Borrowers shall indemnify the Administrative Agent, the Collateral Agent, each L/C Issuer, each Lender and the Related Parties of each of them from all losses, costs, expenses and liabilities resulting from the reliance by such Person on each notice purportedly given by or on behalf of any Borrower to the extent required by Section 10.05. All telephonic notices to and other telephonic communications with the Administrative Agent may be recorded by the Administrative Agent, and each of the parties hereto hereby consents to such recording.

Section 10.03 No Waiver; Cumulative Remedies; Enforcement.

(a) No failure by any Lender, any L/C Issuer or any Agent to exercise, and no delay by any such Person in exercising, any right, remedy, power or privilege hereunder or under any other Loan Document shall operate as a waiver thereof; nor shall any single or partial exercise of any right, remedy, power or privilege hereunder preclude any other or further exercise thereof or the exercise of any other right, remedy, power or privilege. The rights, remedies, powers and privileges provided hereunder and under each other Loan Document, are cumulative and not exclusive of any rights, remedies, powers and privileges provided by Law.

(b) Notwithstanding anything to the contrary contained herein or in any other Loan Document, the authority to enforce rights and remedies hereunder and under the other Loan Documents against the Loan Parties and the Grantors or any of them, and the right to realize upon any of the Collateral or to enforce any Guarantee of the Obligations, shall be vested exclusively in, and all actions and proceedings at law in connection with such enforcement shall be instituted and maintained exclusively by, the Administrative Agent or the Collateral Agent in accordance with Section 8.02 for the benefit of all the Lenders and the L/C Issuers; provided, however, that the foregoing shall not prohibit (i) the Administrative Agent or the Collateral Agent from exercising on its own behalf the rights and remedies that inure to its benefit (solely in its capacity as the Administrative Agent or the Collateral Agent) hereunder and under the other Loan Documents, (ii) each L/C Issuer from exercising the rights and remedies that inure to its benefit (solely in its capacity as an L/C Issuer) hereunder and under the other Loan Documents, or (iii) any Lender from exercising setoff rights in accordance with Section 10.09 (subject to the terms of Section 2.13); and provided further, that if at any time there is no Person acting as Administrative Agent hereunder and under the other Loan Documents, then (x) the Required Lenders shall have the rights otherwise ascribed to the Administrative Agent pursuant to Section 8.02 and (y) in addition to the matters set forth in clauses (ii) and (iii) of the preceding proviso and subject to Section 2.13, any Lender may, with the consent of the Required Lenders, enforce any rights and remedies available to it and as authorized by the Required Lenders. In the event of a foreclosure by the Collateral Agent on any of the Collateral pursuant to a public or private sale, the Administrative Agent, the Collateral Agent or any Lender (or any person nominated by them) may be the purchaser of any or all of such Collateral at any such sale and the Administrative Agent, as agent for and representative of the Lenders (but not any Lender or Lenders in its or their respective individual capacities unless the Required Lenders shall otherwise agree in writing), shall be entitled, for the purpose of bidding and making settlement or payment of the purchase price for all or any portion of the Collateral sold in any such public sale, to use and apply any of the Obligations as a credit on account of the purchase price for any Collateral payable by the Administrative Agent at such sale, in accordance with the provisions of Section 9.17.

Section 10.04 Costs and Expenses. The Borrowers agree (a) to pay or reimburse the Administrative Agent and the other Agents for all reasonable, documented and invoiced out-of-pocket costs and expenses incurred in connection with the preparation, negotiation, syndication and execution of this Agreement and the other Loan Documents (including reasonable expenses incurred in connection with due diligence and travel, courier, reproduction, printing and delivery expenses), and any amendment, waiver, consent or other modification of the provisions hereof and thereof, and the consummation and administration of the transactions contemplated hereby and thereby, including the reasonable fees, disbursements and other charges of counsel (limited to the reasonable, documented out-of-pocket fees, disbursements and other charges of one (1) primary counsel to the Agents, taken as a whole, and, if necessary, one (1) local counsel in each relevant jurisdiction (which may include a single special counsel acting in multiple jurisdictions, in each case, in jurisdictions material to the interests of the Lenders) and one (1) special counsel for each relevant specialty), and (b) to pay or reimburse the Administrative Agent, the other Agents and each Lender (including, for the avoidance of doubt, each L/C Issuer) for all reasonable, documented and invoiced out-of-pocket costs and expenses incurred in connection with the enforcement of any rights or remedies under this Agreement or the other Loan Documents (including all such costs and expenses incurred during any legal proceeding, any proceeding under any Debtor Relief Law or in connection with any workout or restructuring), including the fees, disbursements and other charges of counsel (limited to the reasonable fees, documented out-of-pocket disbursements and other charges of one (1) counsel to the Administrative Agent, the other Agents and the Lenders taken as a whole, and, if necessary, of one (1) local counsel in each relevant jurisdiction (which may include a single special counsel acting in multiple jurisdictions, in each case, in jurisdictions material to the interests of the Lenders) and of one (1) special counsel for each relevant specialty, and, in the event of any actual or perceived conflict of interest, one (1) additional counsel in each relevant jurisdiction for each Lender or group of similarly affected Lenders or Agents subject to such conflict). The foregoing costs and expenses shall include all reasonable search, filing, recording, title insurance and appraisal charges and fees, and other out-of-pocket expenses incurred by any Agent. All amounts due under this Section 10.04 shall be paid within thirty (30) days after invoiced or demand therefor (with a reasonably detailed invoice with respect thereto) (except for any such costs and expenses incurred prior to the Closing Date, which shall be paid on the Closing Date to the extent invoiced at least five (5) Business Days prior to the Closing Date). The agreements in this Section 10.04 shall survive the termination of the Aggregate Commitments and repayment of all other Obligations. If any Loan Party or Grantor fails to pay when due any costs, expenses or other amounts payable by it hereunder or under any Loan Document, such amount may be paid on behalf of such Loan Party or Grantor by the Administrative Agent after any applicable grace periods have expired, in its sole discretion and the Borrowers shall immediately reimburse the Administrative Agent, as applicable. This Section 10.04 shall not apply with respect to Taxes other than any Taxes that directly relate to any non-Tax cost or expense described above.

Section 10.05 Indemnification by the Borrowers; Limitation of Liability; Etc. The Borrowers shall indemnify and hold harmless each Agent, each Arranger, each Agent-Related Person, each Lender, each L/C Issuer, each of their respective Affiliates and each partner, director, officer, employee, counsel, agent and representative of the foregoing and, in the case of any funds, trustees and advisors and attorneys-in-fact (collectively, the “Indemnitees”) from and against (and will reimburse each Indemnitee, as and when incurred, for) any and all liabilities, obligations, losses, damages, penalties, claims, demands, actions, judgments, suits, costs (including settlement costs), disbursements, and reasonable and documented or invoiced out-of-pocket fees and expenses (including the reasonable, documented out-of-pocket fees, disbursements and other charges of (i) one (1) counsel to the Indemnitees taken as a whole, (ii) in the case of an actual or perceived conflict of interest, where the Indemnitee affected by such conflict notifies the Borrowers and thereafter retains its own counsel, of another firm of counsel for each such affected Indemnitee in each relevant jurisdiction material to the interests of the Lenders, and (iii) if necessary, one (1) local counsel in each jurisdiction material to the interests of the Indemnitees (which may include a single special counsel acting in multiple jurisdictions) and one (1) special counsel for each relevant specialty) of

any kind or nature whatsoever which may at any time be imposed on, incurred by or asserted or awarded against any such Indemnitee in any way relating to or arising out of or in connection with or by reason of (a) the execution, delivery, enforcement, performance or administration of any Loan Document or any other agreement, letter or instrument delivered in connection with the transactions contemplated thereby or the consummation of the transactions contemplated thereby, (b) any Commitment, Loan or Letter of Credit or the use or proposed use of the proceeds therefrom (including any refusal by any L/C Issuer to honor a demand for payment under a Letter of Credit if the documents presented in connection with such demand do not strictly comply with the terms of such Letter of Credit) or (c) any actual or alleged presence or release of Hazardous Materials on or from any property currently or formerly owned or operated by the Parent Borrower or any of its Subsidiaries, or any Environmental Liability related in any way to the Parent Borrower or any of its Subsidiaries, including in each case any actual or prospective claim, litigation, investigation or proceeding in any way relating to, arising out of, in connection with or by reason of any of the foregoing, whether based on contract, tort or any other theory (including any investigation of, preparation for, or defense of any pending or threatened claim, investigation, litigation or proceeding) (collectively, the “Indemnified Liabilities”); provided that such indemnity shall not, as to any Indemnitee, be available to the extent that such liabilities, obligations, losses, damages, penalties, claims, demands, actions, judgments, suits, costs, disbursements, fees or related expenses (A) are determined by a court of competent jurisdiction in a final and non-appealable judgment to have resulted from (1) the bad faith, gross negligence or willful misconduct of such Indemnitee or any of its Affiliates or controlling persons or any of the officers, directors, employees, agents, advisors or members of any of the foregoing and (2) a material breach of the Loan Documents by such Arranger, Agent-Related Person, Lender, L/C Issuer (or any of their respective Affiliates, partners, directors, officers, employees, counsel, agents and representatives), as the case may be, as determined by a court of competent jurisdiction in a final and non-appealable decision, (B) arise out of any dispute that is among Indemnites (other than any dispute involving claims against the Administrative Agent, any Arranger or any other Agent or any L/C Issuer, in each case in their respective capacities as such) that did not involve actions or omissions of the Borrowers or their Subsidiaries or (C) subject to the second succeeding paragraph below, any settlement entered into by such Indemnites without the Borrowers’ written consent (such consent not to be unreasonably withheld, delayed or conditioned).

No Indemnitee shall be liable for any damages arising from the use by others of any information or other materials obtained through the Platform or other information transmission systems (including electronic telecommunications) in connection with this Agreement unless determined by a court of competent jurisdiction in a final and non-appealable judgment to have resulted from the gross negligence, bad faith or willful misconduct of such Indemnitee, nor shall any Indemnitee or any Loan Party have any liability for any special, punitive, indirect or consequential damages (including any loss of profits, business or anticipated savings) relating to this Agreement or any other Loan Document or arising out of its activities in connection herewith or therewith (whether before or after the Closing Date); provided that such waiver of special, punitive, indirect or consequential damages shall not limit the indemnification obligations of the Loan Parties under this Section 10.05.

In the case of an investigation, litigation or other proceeding to which the indemnity in this Section 10.05 applies, such indemnity shall be effective whether or not such investigation, litigation or proceeding is brought by any Loan Party, its directors, shareholders or creditors or an Indemnitee or any other Person, and whether or not any Indemnitee is otherwise a party thereto. Should any investigation, litigation or proceeding be settled, or if there is a judgment in any such investigation, litigation or proceeding, the Borrowers shall indemnify and hold harmless each Indemnitee in the manner set forth above; provided that the Borrowers shall not be liable for any settlement effected without the Borrowers’ prior written consent (such consent not to be unreasonably withheld, delayed or conditioned).

All amounts due under this Section 10.05 shall be payable within thirty (30) days after demand therefor. The agreements in this Section 10.05 shall survive the resignation of any Agent, the replacement of any Lender, the termination of the Aggregate Commitments and the repayment, satisfaction or discharge of all the other Obligations. This Section 10.05 shall not apply with respect to Taxes other than any Taxes that represent losses, claims, damages, etc. that arise from any non-Tax claim described above.

Section 10.06 Payments Set Aside. To the extent permitted by applicable Law, to the extent that any payment by or on behalf of any Loan Party or Grantor is made to any Agent, to any L/C Issuer or any Lender, in each case in their capacities as such, or any Agent, any L/C Issuer or any Lender exercises its right of setoff, and such payment or the proceeds of such setoff or any part thereof is subsequently invalidated, declared to be fraudulent or preferential, set aside or required (including pursuant to any settlement entered into by such Agent, such L/C Issuer or such Lender in its discretion) to be repaid to a trustee, receiver or any other party, in connection with any proceeding under any Debtor Relief Law or otherwise, then (a) to the extent of such recovery, the obligation or part thereof originally intended to be satisfied shall be revived and continued in full force and effect as if such payment had not been made or such setoff had not occurred, and (b) each Lender and each L/C Issuer severally agrees to pay to the Administrative Agent upon demand its applicable share (without duplication) of any amount so recovered from or repaid by any Agent, *plus* interest thereon from the date of such demand to the date such payment is made at a rate per annum equal to the Overnight Rate from time to time in effect. The obligations of the Lenders and the L/C Issuers under clause (b) of the preceding sentence shall survive the payment in full of the Obligations and the termination of this Agreement.

Section 10.07 Successors and Assigns.

(a) The provisions of this Agreement shall be binding upon and inure to the benefit of the parties hereto and their respective successors and assigns permitted hereby, except that no Borrower may assign or otherwise transfer any of its rights or obligations hereunder without the prior written consent of the Administrative Agent and each Lender except as permitted by Section 7.03 and no Lender may assign or otherwise transfer any of its rights or obligations hereunder except (i) to an Eligible Assignee (other than to any natural person) in accordance with the provisions of Section 10.07(b), (ii) by way of participation in accordance with the provisions of Section 10.07(d), (iii) by way of pledge or assignment of a security interest subject to the restrictions of Section 10.07(f) or (iv) to an SPC in accordance with the provisions of Section 10.07(g) (and any other attempted assignment or transfer by any party hereto shall be null and void). Nothing in this Agreement, expressed or implied, shall be construed to confer upon any Person (other than the parties hereto, their respective successors and assigns permitted hereby, Participants to the extent provided in Section 10.07(d) and, to the extent expressly contemplated hereby, the Indemnitees) any legal or equitable right, remedy or claim under or by reason of this Agreement.

(b) Any Lender may at any time assign to one or more Eligible Assignees all or a portion of its rights and obligations under this Agreement (including all or a portion of its Commitment(s) and the Loans (including for purposes of this Section 10.07(b), participations in L/C Obligations) at the time owing to it); provided that:

(i) (A) in the case of an assignment of the entire remaining amount of the assigning Lender's Commitment under any Facility and the Loans at the time owing to it under such Facility, or in the case of an assignment to a Lender, an Affiliate of a Lender or an Approved Fund, no minimum amount shall need be assigned, and (B) in any case not described in clause (b)(i)(A) of this Section, the aggregate amount of the Commitment (which for this purpose includes Loans outstanding thereunder) or, if the applicable Commitment is not then in effect, the outstanding principal balance of the Loans of the assigning Lender subject to each such assignment, determined as of the date the Assignment and Assumption with respect to such assignment is delivered to the Administrative Agent or, if "Trade Date" is specified in the Assignment and Assumption, as of such "Trade Date", shall not be less than \$5,000,000 (or equivalent) (or such lesser amount as is

acceptable to the Administrative Agent and the Parent Borrower), in the case of any assignment in respect of the Revolving Credit Facility, or \$1,000,000 (or such lesser amount as is acceptable to the Administrative Agent and the Parent Borrower), in the case of any assignment in respect of a Term Facility, in each case unless each of the Administrative Agent and, so long as no Event of Default under Section 8.01(a), (f) or (g) has occurred and is continuing, the Parent Borrower otherwise consents (such consent not to be unreasonably withheld, conditioned or delayed); provided, however, that concurrent assignments to members of an Assignee Group and concurrent assignments from members of an Assignee Group to a single Eligible Assignee (or to an Eligible Assignee and members of its Assignee Group) will be treated as a single assignment for purposes of determining whether such minimum amount has been met;

(ii) each partial assignment shall be made as an assignment of a proportionate part of all the assigning Lender's rights and obligations under this Agreement with respect to the Loans or the Commitment assigned, except that this clause (ii) shall not prohibit any Lender from assigning all or a portion of its rights and obligations among separate Facilities (or Tranches of any Facility) on a non-pro rata basis;

(iii) no consent shall be required for any assignment except to the extent required by clause (b)(i)(B) of this Section 10.07 and, in addition (A) the consent of the Parent Borrower (such consent not to be unreasonably withheld, conditioned or delayed; provided that (x) the Parent Borrower shall have absolute consent rights with regards to any proposed assignment to a Blocked Person notwithstanding anything in this Agreement to the contrary and (y) it shall not be unreasonable for the Borrowers to refuse consent to any Person that is not engaged in the making, purchasing, holding or investing in bank loans and similar extensions of credit in the ordinary course of business) shall be required for any assignment unless (1) an Event of Default under Section 8.01(a), (f) or (g) has occurred and is continuing at the time of such assignment; (2) such assignment is in respect of a Term Facility and is to a Lender, an Affiliate of a Lender or an Approved Fund (other than any Blocked Person); or (3) such assignment is in respect of the Revolving Credit Facility and made from a Revolving Credit Lender to a Revolving Credit Lender or an Affiliate of a Revolving Credit Lender (other than any Blocked Person); provided that the Parent Borrower shall be deemed to have consented to any assignment unless the Parent Borrower objects thereto by written notice to the Administrative Agent within ten (10) Business Days after having received notice thereof, (B) the consent of the Administrative Agent (such consent not to be unreasonably withheld, conditioned or delayed) shall be required for any assignment unless (1) such assignment is in respect of a Term Facility and is to a Lender, an Affiliate of a Lender or an Approved Fund or (2) such assignment is in respect of the Revolving Credit Facility and is to a Revolving Credit Lender, an Affiliate of a Revolving Credit Lender or an Approved Fund related thereto (provided that in each case the Administrative Agent shall acknowledge any such assignment) and (C) the consent of each L/C Issuer of the applicable Revolving Tranche (such consent not to be unreasonably withheld, conditioned or delayed) shall be required for any assignment in respect of the Revolving Credit Facility of such Revolving Tranche; provided, however, that the consent of each L/C Issuer shall not be required for any assignment in respect of a Term Loan;

(iv) the parties to each assignment shall execute and deliver to the Administrative Agent an Assignment and Assumption via an electronic settlement system acceptable to the Administrative Agent (or, if previously agreed with the Administrative Agent, manually), together with a processing and recordation fee of \$3,500 for each assignment, except the Administrative Agent, in its sole discretion, may elect to waive such processing and recording fee in the case of any assignment. Each Eligible Assignee that is not an existing Lender shall deliver to the Administrative Agent (I) an Administrative Questionnaire and (II) all documentation and other information with respect to such assignee that the Administrative Agent reasonably requests in order to comply with its ongoing obligations under applicable "know your customer" and anti-money laundering rules and regulations, including the PATRIOT Act;

(v) no such assignment shall be made to (A) any Defaulting Lender or any of its Subsidiaries, or any Person who, upon becoming a Lender hereunder, would constitute any of the foregoing Persons described in this subclause (A), (B) any natural person (or holding company, investment vehicle or trust for, or owned and operated for the primary benefit of, a natural person), (C) any Disqualified Institution (provided, however, that a list of Disqualified Institutions has been made available to all applicable Lenders by or on behalf of the Parent Borrower or Borrower Representative) (each such Person described in clauses (A) through (C) of this clause (v), a “Blocked Person”), or (D) the Parent Borrower or any of its Subsidiaries except as permitted under Section 10.07(j) below, it being understood that the Parent Borrower has absolute blocking rights with regards to any proposed assignment to any Blocked Person;

(vi) [reserved];

(vii) the assigning Lender shall deliver any Notes or, in lieu thereof, a lost note affidavit and indemnity reasonably acceptable to the Borrowers evidencing such Loans to the Borrowers or the Administrative Agent; and

(viii) in connection with any assignment of rights and obligations of any Defaulting Lender hereunder, no such assignment shall be effective unless and until, in addition to the other conditions thereto set forth herein, the parties to the assignment shall make such additional payments to the Administrative Agent in an aggregate amount sufficient, upon distribution thereof as appropriate (which may be outright payment, purchases by the assignee of participations or subparticipations, or other compensating actions, including funding, with the consent of the Borrowers and the Administrative Agent, the applicable Pro Rata Share of Loans previously requested but not funded by the Defaulting Lender, to each of which the applicable assignee and assignor hereby irrevocably consent), to (x) pay and satisfy in full all payment liabilities then owed by such Defaulting Lender to any Agent or any L/C Issuer or Lender hereunder (and interest accrued thereon) and (y) acquire (and fund as appropriate) its full Pro Rata Share of all Loans and participations in Letters of Credit in accordance with its Pro Rata Share; provided that notwithstanding the foregoing, in the event that any assignment of rights and obligations of any Defaulting Lender hereunder shall become effective under applicable Law without compliance with the provisions of this clause, then the assignee of such interest shall be deemed to be a Defaulting Lender for all purposes of this Agreement until such compliance occurs.

Notwithstanding anything herein to the contrary, if any Loans or Commitments are assigned or participated (x) to a Blocked Person or (y) without the Borrower’s consent to the extent such consent is otherwise required under Sections 10.07(b), then: (a) the Borrowers may (i) terminate any Commitment of such person and prepay any applicable outstanding Loans at a price equal to the lesser of (x) the current trading price of the Loans, (y) par and (z) the amount such person paid to acquire such Loans, in each case, without premium, penalty, prepayment fee or breakage, and/or (ii) require such person to assign its rights and obligations to one or more Eligible Assignees at the price indicated above (which assignment shall not be subject to any processing and recordation fee) and if such person does not execute and deliver to the Administrative Agent a duly executed Assignment and Assumption reflecting such assignment within three (3) Business Days of the date on which the assignee Lender executes and delivers such Assignment and Assumption to such person, then such person shall be deemed to have executed and delivered such Assignment and Assumption without any action on its part, (b) no such person shall receive any information or reporting provided by the Borrowers, the Administrative Agent or any Lender, (c) for purposes of voting,

any Loans or Commitments held by such person shall be deemed not to be outstanding, and such person shall have no voting or consent rights with respect to "Required Lender," "Majority Lender" or class votes or consents, (d) for purposes of any matter requiring the vote or consent of each Lender affected by any amendment or waiver, such person shall be deemed to have voted or consented to approve such amendment or waiver if a majority of the affected class (giving effect to clause (c) above) so approves, and (e) such person shall not be entitled to any expense reimbursement or indemnification rights under any Loan Documents (including Sections 10.04 and 10.05) and the Borrowers expressly reserve all rights against such person under contract, tort or any other theory and shall be treated in all other respects as a Defaulting Lender; it being understood and agreed that the foregoing provisions shall only apply to a Blocked Person and not to any assignee of such Blocked Person that becomes a Lender so long as such assignee is not a Blocked Person or an affiliate thereof.

Subject to acceptance and recording thereof by the Administrative Agent pursuant to Section 10.07(c), from and after the effective date specified in each Assignment and Assumption, the Eligible Assignee thereunder shall be a party to this Agreement and, to the extent of the interest assigned by such Assignment and Assumption, have the rights and obligations of a Lender under this Agreement, and the assigning Lender thereunder shall, to the extent of the interest assigned by such Assignment and Assumption, be released from its obligations under this Agreement (and, in the case of an Assignment and Assumption covering all of the assigning Lender's rights and obligations under this Agreement, such Lender shall cease to be a party hereto but shall continue to be entitled to the benefits of Sections 3.01, 3.04, 3.05, 10.04 and 10.05 with respect to facts and circumstances occurring prior to the effective date of such assignment, and subject to the obligations set forth in Section 10.08). Upon request, and the surrender by the assigning Lender of its Note, each applicable Borrower (at its expense) shall execute and deliver a Note to the assignee Lender; provided, to the extent that the assigning Lender shall have lost the Note provided to it, such Lender shall execute a lost affidavit and provide indemnities reasonably acceptable to the Parent Borrower. Any assignment or transfer by a Lender of rights or obligations under this Agreement (other than any purported assignment or transfer to a Blocked Person as provided in the preceding paragraph of this Section 10.07(b)) that does not comply with this clause (b) shall be treated for purposes of this Agreement as a sale by such Lender of a participation in such rights and obligations in accordance with Section 10.07(d).

(c) The Administrative Agent, acting solely for this purpose as a non-fiduciary agent of the Borrowers (and such agency being solely for tax purposes), shall maintain at the Administrative Agent's Office a copy of each Assignment and Assumption delivered to it and a register in which it shall record the names and addresses of the Lenders, and the Commitments of, and principal amounts (and related interest amounts) of the Loans, L/C Obligations (specifying the Unreimbursed Amounts), L/C Borrowings and amounts due under Section 2.03, owing to, each Lender pursuant to the terms hereof from time to time (each such register maintained by the Administrative Agent, a "Register"). The entries in the applicable Register shall be conclusive with respect to the applicable entries in such Register, absent manifest error, and the Borrowers, the Agents and the Lenders shall treat each Person whose name is recorded in each Register pursuant to the terms hereof as a Lender hereunder for all purposes of this Agreement, notwithstanding notice to the contrary. In addition, the Administrative Agent shall maintain on the Register information regarding the designation, and revocation of designation, of any Lender as Defaulting Lender. The Registers shall be available for inspection by the Borrowers, any Agent and any Lender (but only to entries with respect to itself), at any reasonable time and from time to time upon reasonable prior notice. This Section 10.07(c), Section 10.07(m) and Section 2.11 shall be construed so that all Loans are at all times maintained in "registered form" within the meaning of Sections 163(f), 871(h)(2) and 881(c)(2) of the Code and any related Treasury regulations (or any other relevant or successor provisions of the Code or of such Treasury regulations).



(d) Any Lender may at any time, without the consent of, or notice to, the Parent Borrower, the Administrative Agent or the L/C Issuers, sell participations to any Person (other than a Blocked Person; provided, however, that, participations may be sold to Disqualified Institutions unless a list of Disqualified Institutions has been made available to all applicable Lenders by or on behalf of the Parent Borrower or Borrower Representative) (each, a "Participant") in all or a portion of such Lender's rights and/or obligations under this Agreement (including all or a portion of its Commitment and/or the Loans (including such Lender's participations in L/C Obligations) owing to it); provided that (i) such Lender's obligations under this Agreement shall remain unchanged, (ii) such Lender shall remain solely responsible to the other parties hereto for the performance of such obligations and (iii) the Borrowers, the Agents and the other Lenders shall continue to deal solely and directly with such Lender in connection with such Lender's rights and obligations under this Agreement. Any agreement or instrument pursuant to which a Lender sells such a participation shall provide that such Lender shall retain the sole right to enforce this Agreement and the other Loan Documents and to approve any amendment, modification or waiver of any provision of this Agreement or any other Loan Document unless otherwise agreed by the Borrowers; provided that such agreement or instrument may provide that such Lender will not, without the consent of the Participant, agree to any amendment, waiver or other modification described in the first proviso to Section 10.01 (in the case of any amendment, waiver or other modification described in clause (a), (b), (c), (d), (g) or (i) of such proviso, that directly and adversely affects such Participant). Subject to Section 10.07(e), the Parent Borrower agrees that each Participant shall be entitled to the benefits of Sections 3.01, 3.04 and 3.05 (subject to the requirements and the limitations of such Sections (it being understood that the documentation required under Section 3.01(g) shall be delivered solely to the participating Lender) and Section 3.08) to the same extent as if it were a Lender (but, with respect to any particular Participant, to no greater extent than the Lender that sold the participation to such Participant) and had acquired its interest by assignment pursuant to Section 10.07(b). To the extent permitted by law, each Participant also shall be entitled to the benefits of Section 10.09 as though it were a Lender (but, with respect to any particular Participant, to no greater extent than the Lender that sold the participation to such Participant); provided such Participant agrees to be subject to Section 2.13 as though it were a Lender.

(e) A Participant (i) agrees to be subject to the provisions of Sections 3.08 as if it were an assignee pursuant to Section 10.07(b) and (ii) shall not be entitled to receive any greater payment under Section 3.01, 3.04 or 3.05 than the applicable Lender would have been entitled to receive with respect to the participation sold to such Participant, except to the extent such entitlement to receive a greater payment results from a change in Law that occurs after the Participant acquired the applicable participation or the sale of the participation to such Participant is made with the Parent Borrower's prior written consent.

(f) Any Lender may at any time pledge or assign a security interest in all or any portion of its rights under this Agreement (including under its Note, if any) (other than to a Disqualified Institution) to secure obligations of such Lender, including any pledge or assignment to secure obligations to a Federal Reserve Bank or any central bank having jurisdiction over such Lender; provided that no such pledge or assignment shall release such Lender from any of its obligations hereunder or substitute any such pledgee or assignee for such Lender as a party hereto.

(g) Notwithstanding anything to the contrary herein, any Lender (a "Granting Lender") may grant to a special purpose funding vehicle identified as such in writing from time to time by the Granting Lender to the Administrative Agent and the Borrower Representative (an "SPC") the option to provide all or any part of any Loan that such Granting Lender would otherwise be obligated to make pursuant to this Agreement; provided that (i) nothing herein shall constitute a commitment by any SPC to fund any Loan, and (ii) if an SPC elects not to exercise such option or otherwise fails to make all or any part of such Loan, the Granting Lender shall be obligated to make such Loan pursuant to the terms hereof or, if it fails to do so, to make such payment to the Administrative Agent as is required under Section 2.12(b)(ii). Each party hereto hereby agrees that an SPC shall be entitled to the benefits of Sections 3.01, 3.04 and 3.05 (subject to

the requirements and the limitations of such Sections and Section 3.08); provided that neither the grant to any SPC nor the exercise by any SPC of such option shall increase the costs or expenses or otherwise increase or change the obligations of the Borrowers under this Agreement (including under Section 3.01, 3.04 or 3.05), unless the grant to such SPC is made with the Parent Borrower's prior written consent. Each party hereto further agrees that (i) no SPC shall be liable for any indemnity or similar payment obligation under this Agreement for which a Lender would be liable, and (ii) the Granting Lender shall for all purposes, including the approval of any amendment, waiver or other modification of any provision of any Loan Document, remain the Lender of record hereunder. Other than as expressly provided in this Section 10.07(g), (A) such Granting Lender's obligations under this Agreement shall remain unchanged, (B) such Granting Lender shall remain solely responsible to the other parties hereto for the performance of such obligations and (C) the Borrowers, the Agents and the other Lenders shall continue to deal solely and directly with such Granting Lender in connection with such Granting Lender's rights and obligations under this Agreement. The making of a Loan by an SPC hereunder shall utilize the Commitment of the Granting Lender to the same extent, and as if, such Loan were made by such Granting Lender. In furtherance of the foregoing, each party hereto hereby agrees (which agreement shall survive the termination of this Agreement) that, prior to the date that is one year and one day after the payment in full of all outstanding commercial paper or other senior debt of any SPC, it will not, other than in respect of matters unrelated to this Agreement or the transactions contemplated hereby, institute against, or join any other Person in instituting against, such SPC any bankruptcy, reorganization, arrangement, insolvency, or liquidation proceeding under the laws of the United States or any State thereof. Notwithstanding anything to the contrary contained herein, any SPC may (i) with notice to, but without prior consent of the Borrowers and the Administrative Agent and with the payment of a processing fee of \$3,500, assign all or any portion of its rights hereunder with respect to any Loan to the Granting Lender and (ii) subject to Section 10.08, disclose on a confidential basis any non-public information relating to its funding of Loans to any rating agency, commercial paper dealer or provider of any surety or Guarantee or credit or liquidity enhancement to such SPC.

(h) [Reserved].

(i) [Reserved].

(j) Notwithstanding anything to the contrary herein, so long as no Event of Default under Section 8.01(a), (f) or (g) shall exist and be continuing, any Lender may assign all or any portion of its Term Loans, Specified Refinancing Term Loans and New Term Loans hereunder to the Parent Borrower or any of its Restricted Subsidiaries, but only if:

(i) such assignment is made (x) through open market purchase or (y) pursuant to a Dutch Auction open to all Term Lenders, Specified Refinancing Term Loan lenders or New Term Loan lenders on a pro rata basis;

(ii) [reserved];

(iii) any such Term Loans shall be automatically and permanently cancelled immediately upon acquisition thereof by the Parent Borrower or any of its Restricted Subsidiaries; and

(iv) the Parent Borrower and its Subsidiaries do not use the proceeds of the Revolving Credit Facility (whether or not the Revolving Credit Facility has been increased pursuant to Section 2.14 or refinanced pursuant to Section 2.18) to acquire such Term Loan.

In connection with any assignment pursuant to this Section 10.07(j), each Lender acknowledges and agrees that, in connection therewith, (1) the Parent Borrower and/or any of its Subsidiaries may have, and later may come into possession of, information regarding the Parent Borrower, any of its Subsidiaries and/or any of their respective Affiliates not known to such Lender and that may be material to a decision by such Lender to participate in such assignment (including material non-public information) ("Excluded Information"), (2) such Lender, independently and, without reliance on the Parent Borrower, any of its Subsidiaries, any Agent or any of their respective Affiliates, has made its own analysis and determination to participate in such assignment notwithstanding such Lender's lack of knowledge of the Excluded Information and (3) none of the Parent Borrower, any of its Subsidiaries, any Agent or any of their respective Affiliates shall have any liability to such Lender, and such Lender hereby waives and releases, to the extent permitted by law, any claims such Lender may have against the Parent Borrower, any of its Subsidiaries, any Agent or any of their respective Affiliates, under applicable laws or otherwise, with respect to the nondisclosure of the Excluded Information.

(k) [Reserved].

(l) Notwithstanding anything to the contrary herein, any L/C Issuer may, upon thirty (30) days' notice to the Borrowers and the Lenders, resign as L/C Issuer; provided that on or prior to the expiration of such thirty (30)-day period with respect to such resignation, the relevant L/C Issuer (or the Parent Borrower) shall have identified a successor L/C Issuer willing to accept its appointment as successor L/C Issuer, and the effectiveness of such resignation shall be conditioned upon such successor assuming the rights and duties of the L/C Issuer. In the event of any such resignation as L/C Issuer, Parent Borrower shall be entitled to appoint from among the Lenders agreeing to accept such appointment a successor L/C Issuer hereunder and such Person (subject to the retiring L/C Issuer's consent, not to be unreasonably withheld, delayed or conditioned) shall be the successor L/C to the resigning L/C Issuer; provided, however, that no failure by Parent Borrower to appoint any such successor shall affect the resignation of the L/C Issuer. If an L/C Issuer resigns as L/C Issuer, it shall retain all the rights and obligations of an L/C Issuer hereunder with respect to all Letters of Credit outstanding as of the effective date of its resignation as L/C Issuer and all L/C Obligations with respect thereto (including the right to require the Lenders to make Base Rate Loans or fund risk participations in Unreimbursed Amounts pursuant to Section 2.03(d)). Upon the appointment of a successor L/C Issuer, (A) such successor shall succeed to and become vested with all of the rights, powers, privileges and duties of the retiring L/C Issuer, and (B) the successor L/C Issuer shall issue letters of credit in substitution for the Letters of Credit issued by the retiring L/C Issuer, if any, outstanding at the time of such succession or make other arrangements satisfactory to the retiring L/C Issuer to effectively assume the obligations of the retiring L/C Issuer with respect to such Letters of Credit.

(m) The applicable Lender, acting solely for this purpose as a non-fiduciary agent of the Borrowers (solely for tax purposes), shall maintain a register on which it enters the name and address of (i) each SPC (other than any SPC that is treated as a disregarded entity of the Granting Lender for U.S. federal income tax purposes) that has exercised its option pursuant to Section 10.07(g) and (ii) each Participant, and the amount of each such SPC's and Participant's interest in such Lender's rights and/or obligations under this Agreement or any Loan Document complying with the requirements of Sections 163(f), 871(h) and 881(c)(2) of the Code and the United States Treasury Regulations (the "Participant Register"); provided that no Lender shall have any obligation to disclose all or any portion of the Participant Register (including the identity of any Participant or any information relating to a Participant's interest in any commitments, loans, letters of credit or its other obligations under any Loan Document) to any Person except to the extent that such disclosure is necessary to establish that such commitment, loan, letter of credit or other obligation is in registered form under Section 5f.103-1(c) of the United States Treasury Regulations. The entries in the Participant Register shall be conclusive absent manifest error, and the Borrowers and such Lender shall treat each Person whose name is recorded in the Participant Register as the owner of the applicable rights and/or obligations of such Lender under this Agreement, notwithstanding notice to the contrary.

(n) In the event that a transfer by any of the Secured Parties of its rights and/or obligations under this Agreement (and/or any relevant Loan Document) occurred or was deemed to occur by way of novation, the Borrowers and any other Loan Parties and Grantors explicitly agree that all securities and guarantees created under any Loan Documents shall be preserved for the benefit of the new Lender and the other Secured Parties.

Section 10.08 Confidentiality. Each of the Agents and the Lenders agrees to maintain the confidentiality of the Information, except that Information may be disclosed (a) to its Affiliates and to its and its Affiliate's respective partners, directors, officers, employees, trustees, representatives and agents, including accountants, legal counsel and other advisors on a need to know basis in connection with the transactions contemplated hereby (it being understood that the Persons to whom such disclosure is made will be informed of the confidential nature of such Information and instructed to keep such Information confidential in accordance with customary practices); (b) to the extent requested by any regulatory authority having jurisdiction over such Agent or such Lender (in which case, the Agent or such Lender, as applicable, agrees (except with respect to any audit or examination conducted by bank accountants or any governmental bank regulatory authority exercising examination or regulatory authority), to the extent not prohibited by applicable Law, to promptly notify the Borrowers prior to such disclosure); (c) in any legal, judicial, administrative proceeding or other compulsory process or otherwise as required by applicable Laws or by any subpoena or similar legal process, in each case based upon the reasonable advice of the disclosing Agent's or Lender's legal counsel (in which case the disclosing Agent or Lender, as applicable, agrees (except with respect to any audit or examination conducted by bank accountants or any governmental bank regulatory authority exercising examination or regulatory authority), to the extent not prohibited by applicable Law, to promptly notify the Borrowers prior to such disclosure); (d) to any other party to this Agreement; (e) in connection with the exercise of any remedies hereunder or under any other Loan Document or any action or proceeding relating to this Agreement or any other Loan Document or the enforcement of rights hereunder or thereunder; (f) subject to an agreement containing provisions substantially the same (or at least as restrictive) as those of this Section 10.08, to any Eligible Assignee of or Participant in, or any prospective Eligible Assignee of or Participant in, any of its rights or obligations under this Agreement; provided that no such disclosure shall be made by such Lender or such Agent or any of their respective Affiliates to any such Person that is a Disqualified Institution; (g) with the written consent of the Parent Borrower; (h) to the extent such Information becomes publicly available other than as a result of a breach of this Section 10.08; (i) to any state, federal or foreign authority or examiner (including the National Association of Insurance Commissioners or any other similar organization) regulating any Agent or Lender or any Affiliate of any Agent or Lender; (j) to any rating agency in connection with rating the Borrowers or their Subsidiaries or the Facilities (it being understood that, prior to any such disclosure, such rating agency shall undertake to preserve the confidentiality of any Information relating to the Loan Parties received by it from such Lender); (k) subject to an agreement containing provisions substantially the same as (or at least as restrictive), to any contractual counterparty (or prospective contractual counterparty's) in any swap, hedge, similar agreement or other similar transaction under which payments are to be made by reference to the Borrowers and their obligations, or to any such contractual counterparty's (or prospective contractual counterparty's) professional advisor (in each case, other than any Disqualified Institution); or (l) in connection with establishing a "due diligence" defense in connection with any legal, judicial, administrative proceeding or other process. In addition, the Agents and the Lenders may disclose the existence of this Agreement and information about this Agreement to market data collectors, similar service providers to the lending industry, and service providers to the Agents and the Lenders in connection with the administration and management of this Agreement, the other Loan Documents, the Commitments, and the Credit Extensions; provided that such Person is advised and agrees to be bound by the provisions of this Section 10.08.

For the purposes of this Section 10.08, “Information” means all information received from any Loan Party or any Subsidiary thereof relating to any Loan Party or any Subsidiary thereof or their respective businesses, other than any such information that is publicly available to any Agent or any Lender prior to disclosure by any Loan Party other than as a result of a breach of this Section 10.08 by such Lender or Agent. Any Person required to maintain the confidentiality of Information as provided in this Section 10.08 shall be considered to have complied with its obligation to do so if such Person has exercised the same degree of care to maintain the confidentiality of such Information as such Person would accord to its own confidential information. Notwithstanding the foregoing, for reasons of technical practicality, electronic communication may be sent in unencrypted form, even if the content may be subject to confidentiality and banking secrecy.

Each of the Administrative Agent, the Lenders and each L/C Issuer acknowledges that (i) the Information may include material non-public information concerning the Parent Borrower or any of its Subsidiaries, (ii) it has developed compliance procedures regarding the use of material nonpublic information and (iii) it will handle such material non-public information in accordance with applicable Law, including United States federal and state securities Laws.

For the avoidance of doubt, nothing in this Section 10.08 shall prohibit or impede any Person from communicating or disclosing any Information within the scope of this Section 10.08 regarding suspected violations of laws, rules or regulations to any Governmental Authority or regulatory or self-regulatory authority (any such entity, a “Regulatory Authority”), without any notice to any other Person to the extent that any such prohibition on disclosure set forth in this Section 10.08 shall be prohibited by the laws or regulations applicable to such Regulatory Authority.

Section 10.09 Setoff. In addition to any rights and remedies of the Lenders provided by Law, upon the occurrence and during the continuance of any Event of Default, each Secured Party is authorized at any time and from time to time, after giving prior written notice to the Administrative Agent, without prior notice to the Borrowers or any other Loan Party or Grantor, any such notice being waived by each Borrower (on its own behalf and on behalf of each Loan Party and Grantor) to the fullest extent permitted by Law, to set off and apply any and all deposits (general or special, time or demand, provisional or final, in any currency), other than deposits in fiduciary accounts as to which a Loan Party or Grantor is acting as fiduciary for another Person who is not a Loan Party or Grantor and other than payroll or trust fund accounts, at any time held by, and other Indebtedness (in any currency) at any time owing by, such Lender to or for the credit or the account of the respective Loan Parties or Grantors against any and all Obligations owing to such Secured Party hereunder or under any other Loan Document, now or hereafter existing, irrespective of whether or not such Agent or such Lender shall have made demand under this Agreement or any other Loan Document and although such Obligations may be contingent or unmatured or denominated in a currency different from that of the applicable deposit or Indebtedness or are owed to a branch or office of such Lender different from the branch or office holding such deposit or obligated on such Indebtedness; provided that in the event that any Defaulting Lender shall exercise any such right of setoff, (x) all amounts so set off shall be paid over immediately to the Administrative Agent for further application in accordance with the provisions of Section 2.17 and, pending such payment, shall be segregated by such Defaulting Lender from its other funds and deemed held in trust for the benefit of the Administrative Agent and the Lenders, and (y) the Defaulting Lender shall provide promptly to the Administrative Agent a statement describing in reasonable detail the Obligations owing to such Defaulting Lender as to which it exercised such right of setoff. Each Secured Party agrees promptly to notify the Borrowers after any such set-off and application made by such Secured Party; provided, however, that the failure to give such notice shall not affect the validity of such setoff and application. The rights of the Administrative Agent and each Secured Party under this Section 10.09 are in addition to other rights and remedies (including other rights of setoff) that the Administrative Agent and such Secured Party may have.

Section 10.10 Interest Rate Limitation. Notwithstanding anything to the contrary in any Loan Document, the interest paid or agreed to be paid under the Loan Documents shall not exceed the maximum rate of non-usurious interest permitted by applicable Law (the “Maximum Rate”). If any Agent or any Lender shall receive interest in an amount that exceeds the Maximum Rate, the excess interest shall be applied to the principal of the Loans or, if it exceeds such unpaid principal, refunded to the applicable Borrower. In determining whether the interest contracted for, charged, or received by an Agent or a Lender exceeds the Maximum Rate, such Person may, to the extent permitted by applicable Law, (a) characterize any payment that is not principal as an expense, fee, or premium rather than interest, (b) exclude voluntary prepayments and the effects thereof and (c) amortize, prorate, allocate, and spread in equal or unequal parts the total amount of interest throughout the contemplated term of the Obligations hereunder.

Section 10.11 Counterparts; Electronic Execution. This Agreement and each other Loan Document may be executed in one or more counterparts (and by different parties hereto in different counterparts), each of which shall be deemed an original, but all of which together shall constitute one and the same instrument. Delivery by email or other electronic transmission of an executed counterpart of a signature page to this Agreement and each other Loan Document shall be effective as delivery of an original executed counterpart of this Agreement and such other Loan Document. The Agents may also require that any such documents and signatures delivered by email or other electronic transmission be confirmed by a manually-signed original thereof; provided that the failure to request or deliver the same shall not limit the effectiveness of any document or signature delivered by email or other electronic transmission. The words “execution,” “signed,” “signature,” and words of like import in any Loan Document, any Assignment and Assumption, any Committed Loan Notice or any amendment or other modification hereof or thereof (including waivers and consents) shall be deemed to include electronic signatures or the keeping of records in electronic form, each of which shall be of the same legal effect, validity or enforceability as a manually executed signature or the use of a paper-based recordkeeping system, as the case may be, to the extent and as provided for in any applicable Law, including the Federal Electronic Signatures in Global and National Commerce Act, the New York State Electronic Signatures and Records Act, or any other similar state laws based on the Uniform Electronic Transactions Act. Any signature to any Loan Document, any Assignment and Assumption, any Committed Loan Notice or any amendment or other modification hereof or thereof (including waivers and consents) may be delivered by facsimile, electronic mail (including .pdf) or any electronic signature complying with the U.S. Federal ESIGN Act of 2000 or the New York Electronic Signature and Records Act or other transmission method (including, but not limited to, Uniform Electronic Transactions Act, or other applicable law, e.g., www.docusign.com) and any counterpart so delivered shall be deemed to have been duly and validly delivered and be valid and effective for all purposes to the fullest extent permitted by applicable law.

Section 10.12 Integration; Effectiveness. This Agreement and the other Loan Documents, and those provisions of the Fee Letters that, by their terms, survive the termination or expiration of the Fee Letters or the Closing Date, constitute the entire contract among the parties relating to the subject matter hereof and supersede any and all previous agreements and understandings, oral or written, relating to the subject matter hereof. It is expressly agreed and confirmed by the parties hereto that the provisions of the Fee Letters shall survive the execution and delivery of this Agreement, the occurrence of the Closing Date, and shall continue in effect thereafter in accordance with their terms. In the event of any conflict between the provisions of this Agreement and those of any other Loan Document, the provisions of this Agreement shall control; provided that the inclusion of supplemental rights or remedies in favor of the Agents or the Lenders in any other Loan Document shall not be deemed a conflict with this Agreement. Each Loan Document was drafted with the joint participation of the respective parties thereto and shall be construed neither against nor in favor of any party, but rather in accordance with the fair meaning thereof. Subject to Section 4.01, this Agreement shall become effective when it shall have been executed by the Administrative Agent and when the Administrative Agent shall have received counterparts hereof that, when taken together, bear the signatures of each of the other parties hereto as of the date hereof.

Section 10.13 Survival of Representations and Warranties. All representations and warranties made hereunder and in any other Loan Document or other document delivered pursuant hereto or thereto or in connection herewith or therewith shall survive the execution and delivery hereof and thereof. Such representations and warranties have been or will be relied upon by each Agent and each Lender, regardless of any investigation made by any Agent or any Lender or on their behalf and notwithstanding that any Agent or any Lender may have had notice or knowledge of any Default at the time of any Credit Extension, and shall continue in full force and effect until the Date of Full Satisfaction.

Section 10.14 Severability. If any provision of this Agreement or the other Loan Documents is held to be illegal, invalid or unenforceable, (a) the legality, validity and enforceability of the remaining provisions of this Agreement and the other Loan Documents shall not be affected or impaired thereby and (b) the parties shall endeavor in good faith negotiations to replace the illegal, invalid or unenforceable provisions with valid provisions the economic effect of which comes as close as possible to that of the illegal, invalid or unenforceable provisions. The invalidity of a provision in a particular jurisdiction shall not invalidate or render unenforceable such provision in any other jurisdiction. Without limiting the foregoing provisions of this Section 10.14, if and to the extent that the enforceability of any provisions in this Agreement relating to Defaulting Lenders shall be limited by Debtor Relief Laws then such provisions shall be deemed to be in effect only to the extent not so limited.

Section 10.15 Governing Law; Jurisdiction; Etc.

(a) Governing Law. THIS AGREEMENT AND EACH OTHER LOAN DOCUMENT AND ANY CLAIMS, CONTROVERSY, DISPUTE OR CAUSE OF ACTION (WHETHER IN CONTRACT, TORT OR OTHERWISE) ARISING OUT OF OR RELATING TO THIS AGREEMENT OR ANY OTHER LOAN DOCUMENT (OTHER THAN WITH RESPECT TO ANY LOAN DOCUMENTS TO THE EXTENT EXPRESSLY PROVIDED OTHERWISE THEREIN) SHALL BE GOVERNED BY, AND CONSTRUED IN ACCORDANCE WITH, THE LAW OF THE STATE OF NEW YORK; PROVIDED, HOWEVER, THAT THE DETERMINATION OF WHETHER THE SPIN-OFF HAS BEEN CONSUMMATED AND, IN ANY CASE, CLAIMS OR DISPUTES ARISING OUT OF ANY SUCH INTERPRETATION OR DETERMINATION OR ANY ASPECT THEREOF, IN EACH CASE, SHALL BE GOVERNED BY AND CONSTRUED IN ACCORDANCE WITH THE LAWS OF THE STATE OF DELAWARE, WITHOUT GIVING EFFECT TO ANY CHOICE OR CONFLICT OF LAWS PROVISION OR RULE (WHETHER OF THE STATE OF DELAWARE OR ANY OTHER JURISDICTION) THAT WOULD CAUSE THE APPLICATION OF THE LAWS OF ANY JURISDICTION OTHER THAN THE STATE OF DELAWARE.

(b) Submission to Jurisdiction. EACH PARTY HERETO IRREVOCABLY AND UNCONDITIONALLY SUBMITS, FOR ITSELF AND ITS PROPERTY, TO THE EXCLUSIVE JURISDICTION OF THE COURTS OF THE STATE OF NEW YORK SITTING IN NEW YORK CITY IN THE BOROUGH OF MANHATTAN AND OF THE UNITED STATES DISTRICT COURT FOR THE SOUTHERN DISTRICT OF NEW YORK SITTING IN THE BOROUGH OF MANHATTAN, AND ANY APPELLATE COURT FROM ANY THEREOF, IN ANY ACTION OR PROCEEDING ARISING OUT OF OR RELATING TO THIS AGREEMENT OR ANY OTHER LOAN DOCUMENT (OTHER THAN WITH RESPECT TO ANY COLLATERAL DOCUMENT TO THE EXTENT EXPRESSLY PROVIDED OTHERWISE THEREIN), OR FOR RECOGNITION OR ENFORCEMENT OF ANY JUDGMENT, AND EACH OF THE PARTIES HERETO IRREVOCABLY AND UNCONDITIONALLY AGREES THAT ALL CLAIMS IN RESPECT OF ANY SUCH ACTION OR PROCEEDING MAY BE HEARD AND DETERMINED IN SUCH NEW YORK STATE COURT OR, TO THE FULLEST EXTENT PERMITTED BY APPLICABLE LAW, IN SUCH FEDERAL COURT. EACH OF THE PARTIES HERETO AGREES THAT A FINAL JUDGMENT IN ANY SUCH ACTION OR PROCEEDING SHALL BE CONCLUSIVE AND MAY BE ENFORCED IN OTHER JURISDICTIONS

BY SUIT ON THE JUDGMENT OR IN ANY OTHER MANNER PROVIDED BY LAW. NOTHING IN THIS AGREEMENT OR IN ANY OTHER LOAN DOCUMENT SHALL AFFECT ANY RIGHT THAT ANY AGENT, ANY LENDER OR ANY L/C ISSUER MAY OTHERWISE HAVE TO BRING ANY ACTION OR PROCEEDING RELATING TO THIS AGREEMENT OR ANY OTHER LOAN DOCUMENT OR THE RECOGNITION OR ENFORCEMENT OF ANY JUDGMENT AGAINST ANY LOAN PARTY OR ANY GRANTOR OR ITS PROPERTIES IN THE COURTS OF ANY JURISDICTION.

(c) Waiver of Venue. EACH PARTY HERETO IRREVOCABLY AND UNCONDITIONALLY WAIVES, TO THE FULLEST EXTENT PERMITTED BY APPLICABLE LAW, ANY OBJECTION THAT IT MAY NOW OR HEREAFTER HAVE TO THE LAYING OF VENUE OF ANY ACTION OR PROCEEDING ARISING OUT OF OR RELATING TO THIS AGREEMENT OR ANY OTHER LOAN DOCUMENT IN ANY COURT REFERRED TO IN SECTION 10.15(B). EACH OF THE PARTIES HERETO HEREBY IRREVOCABLY WAIVES, TO THE FULLEST EXTENT PERMITTED BY APPLICABLE LAW, THE DEFENSE OF AN INCONVENIENT FORUM TO THE MAINTENANCE OF SUCH ACTION OR PROCEEDING IN ANY SUCH COURT.

Section 10.16 Service of Process. EACH PARTY HERETO IRREVOCABLY CONSENTS TO SERVICE OF PROCESS IN ANY ACTION OR PROCEEDING ARISING OUT OF OR RELATING TO ANY LOAN DOCUMENT, IN THE MANNER PROVIDED FOR NOTICES IN SECTION 10.02. NOTHING IN THIS AGREEMENT OR ANY OTHER LOAN DOCUMENT WILL AFFECT THE RIGHT OF ANY PARTY HERETO TO SERVE PROCESS IN ANY OTHER MANNER PERMITTED BY APPLICABLE LAW. WITHOUT LIMITING THE OTHER PROVISIONS OF THIS SECTION 10.16 AND IN ADDITION TO THE SERVICE OF PROCESS PROVIDED FOR HEREIN, ANY NON-U.S. SUBSIDIARY HEREBY IRREVOCABLY DESIGNATES, APPOINTS AND EMPOWERS THE PARENT BORROWER (AND THE PARENT BORROWER HEREBY IRREVOCABLY ACCEPTS SUCH APPOINTMENT), AS ITS AUTHORIZED DESIGNEE, APPOINTEE AND AGENT TO RECEIVE, ACCEPT AND ACKNOWLEDGE FOR AND ON ITS BEHALF, AND IN RESPECT OF ITS PROPERTY, SERVICE OF ANY AND ALL LEGAL PROCESS, SUMMONS, NOTICES AND DOCUMENTS WHICH MAY BE SERVED IN ANY SUCH ACTION OR PROCEEDING. IF FOR ANY REASON THE PARENT BORROWER SHALL CEASE TO BE AVAILABLE TO ACT AS SUCH, ANY NON-U.S. SUBSIDIARY AGREES TO PROMPTLY DESIGNATE A NEW AUTHORIZED DESIGNEE, APPOINTEE AND AGENT IN NEW YORK CITY ON THE TERMS AND FOR THE PURPOSES OF THIS PROVISION REASONABLY SATISFACTORY TO THE ADMINISTRATIVE AGENT UNDER THIS AGREEMENT.

Section 10.17 WAIVER OF RIGHT TO TRIAL BY JURY. EACH PARTY TO THIS AGREEMENT HEREBY EXPRESSLY WAIVES ANY RIGHT TO TRIAL BY JURY OF ANY CLAIM, DEMAND, ACTION OR CAUSE OF ACTION ARISING UNDER ANY LOAN DOCUMENT OR IN ANY WAY CONNECTED WITH OR RELATED OR INCIDENTAL TO THE DEALINGS OF THE PARTIES HERETO OR ANY OF THEM WITH RESPECT TO ANY LOAN DOCUMENT, OR THE TRANSACTIONS RELATED THERETO, IN EACH CASE WHETHER NOW EXISTING OR HEREAFTER ARISING, AND WHETHER FOUNDED IN CONTRACT OR TORT OR OTHERWISE; AND EACH PARTY HEREBY AGREES AND CONSENTS THAT ANY SUCH CLAIM, DEMAND, ACTION OR CAUSE OF ACTION SHALL BE DECIDED BY COURT TRIAL WITHOUT A JURY, AND THAT ANY PARTY TO THIS AGREEMENT MAY FILE AN ORIGINAL COUNTERPART OR A COPY OF THIS SECTION 10.17 WITH ANY COURT AS WRITTEN EVIDENCE OF THE CONSENT OF THE SIGNATORIES HERETO TO THE WAIVER OF THEIR RIGHT TO TRIAL BY JURY.

Section 10.18 [Reserved].



Section 10.19 No Advisory or Fiduciary Responsibility. In connection with all aspects of each transaction contemplated hereby (including in connection with any amendment, waiver or other modification hereof or of any other Loan Document), each Borrower acknowledges and agrees, and each of them acknowledges and agrees that it has informed its other Affiliates, that: (a) (i) no fiduciary, advisory or agency relationship between any of the Parent Borrower and its Subsidiaries and any Agent or any Lender is intended to be or has been created in respect of any of the transactions contemplated hereby and by the other Loan Documents, irrespective of whether any Agent or any Lender has advised or is advising the Parent Borrower and its Subsidiaries on other matters, (ii) the arranging and other services regarding this Agreement provided by the Agents and the Lenders are arm's-length commercial transactions between the Parent Borrower and its Subsidiaries, on the one hand, and the Agents and the Lenders, on the other hand, (iii) each Borrower has consulted its own legal, accounting, regulatory and tax advisors to the extent it has deemed appropriate, and (iv) each Borrower is capable of evaluating, and understands and accepts, the terms, risks and conditions of the transactions contemplated hereby and by the other Loan Documents; (b) (i) each Agent and Lender is and has been acting solely as a principal and, except as may otherwise be expressly agreed in writing by the relevant parties, has not been, is not, and will not be acting as an advisor, agent or fiduciary for the Borrowers or any of their respective Affiliates, or any other Person and (ii) neither any Agent nor any Lender has any obligation to the Parent Borrower or any of its Affiliates with respect to the transactions contemplated hereby except those obligations expressly set forth herein and in the other Loan Documents; and (c) the Agents and the Lenders and their respective Affiliates may be engaged in a broad range of transactions that involve interests that differ from those of the Borrowers and their respective Affiliates, and neither any Agent nor any Lender has any obligation to disclose any of such interests and transactions to the Borrowers or their respective Affiliates. To the fullest extent permitted by law, each Borrower hereby waives and releases any claims that it may have against the Agents and the Lenders with respect to any breach or alleged breach of agency or fiduciary duty in connection with any aspect of any transaction contemplated hereby.

Section 10.20 Affiliate Activities. Each Borrower acknowledge that each Agent, each Arranger (and their respective Affiliates) and each Lender may be a full service securities firm engaged, either directly or through affiliates, in various activities, including securities trading, investment banking and financial advisory, investment management, principal investment, hedging, financing and brokerage activities and financial planning and benefits counseling for both companies and individuals. In the ordinary course of these activities, any of them may make or hold a broad array of investments and actively trade debt and equity securities (or related derivative securities) and/or financial instruments (including bank loans) for their own account and for the accounts of customers and may at any time hold long and short positions in such securities and/or instruments. Such investment and other activities may involve securities and instruments of the Parent Borrower and its Affiliates, as well as of other entities and persons and their Affiliates which may (a) be involved in transactions arising from or relating to the engagement contemplated hereby and by the other Loan Documents, (b) be customers or competitors of the Parent Borrower and its Affiliates or (c) have other relationships with the Parent Borrower and its Affiliates. In addition, it may provide investment banking, underwriting and financial advisory services to such other entities and persons. It may also co-invest with, make direct investments in, and invest or co-invest client monies in or with funds or other investment vehicles managed by other parties, and such funds or other investment vehicles may trade or make investments in securities of the Parent Borrower and its Affiliates or such other entities. The transactions contemplated hereby and by the other Loan Documents may have a direct or indirect impact on the investments, securities or instruments referred to in this clause.

Section 10.21 [Reserved].

Section 10.22 USA PATRIOT Act. Each Lender that is subject to the PATRIOT Act and the Administrative Agent (for itself and not on behalf of any Lender) hereby notifies the Loan Parties and the Grantors that pursuant to the requirements of the USA PATRIOT Act (Title III of Pub. L. 107-56 (signed into law October 26, 2001, as amended from time to time)) (the "PATRIOT Act"), it is required to obtain, verify and record information that identifies each Loan Party and each Grantor, which information includes the name and address of each Loan Party and each Grantor and other information that will allow such Lender or the Administrative Agent, as applicable, to identify each Loan Party and each Grantor in accordance with the PATRIOT Act. Each Loan Party and each Grantor shall, promptly following a request by the Administrative Agent or any Lender, provide all documentation and other information that the Administrative Agent or such Lender requests in order to comply with its ongoing obligations under applicable "know your customer" and anti-money laundering rules and regulations, including the PATRIOT Act.

Section 10.23 Judgment Currency. If, for the purposes of obtaining judgment in any court, it is necessary to convert a sum due hereunder or any other Loan Document in one currency into another currency, the rate of exchange used shall be that at which in accordance with normal banking procedures the Administrative Agent could purchase the first currency with such other currency on the Business Day preceding that on which final judgment is given. The obligation of any Borrower in respect of any such sum due from it to the Administrative Agent or the Lenders hereunder or under the other Loan Documents shall, notwithstanding any judgment in a currency (the "Judgment Currency") other than that in which such sum is denominated in accordance with the applicable provisions of this Agreement (the "Agreement Currency"), be discharged only to the extent that on the Business Day following receipt by the Administrative Agent of any sum adjudged to be so due in the Judgment Currency, the Administrative Agent may in accordance with normal banking procedures purchase the Agreement Currency with the Judgment Currency. If the amount of the Agreement Currency so purchased is less than the sum originally due to the Administrative Agent from the applicable Borrower in the Agreement Currency, the Borrowers agree, as a separate obligation and notwithstanding any such judgment, to indemnify the Administrative Agent or the Person to whom such obligation was owing against such loss. If the amount of the Agreement Currency so purchased is greater than the sum originally due to the Administrative Agent in such currency, the Administrative Agent agrees to return the amount of any excess to the applicable Borrower (or to any other Person who may be entitled thereto under applicable Law).

Section 10.24 Joint and Several Liability.

(a) Each Borrower agrees that it is jointly and severally liable for the obligations of the other Borrowers hereunder, including with respect to the payment of principal of and interest on all Loans, the payment of amounts owing in respect of Letters of Credit and the payment of fees and indemnities and reimbursement of costs and expenses. Each Borrower is accepting joint and several liability hereunder in consideration of the financial accommodations to be provided by the Administrative Agent, the Collateral Agent and the Lenders under this Agreement, for the mutual benefit, directly and indirectly, of each of the Borrowers and in consideration of the undertakings of each of the Borrowers to accept joint and several liability for the obligations of each of them. Each Borrower, jointly and severally, hereby irrevocably and unconditionally accepts, as a co-debtor, joint and several liability with each other Borrower, with respect to the payment and performance of all of the Obligations, it being the intention of the parties hereto that all Obligations shall be the joint and several obligations of all of the Borrowers without preferences or distinction among them. If and to the extent that any of the Borrowers shall fail to make any payment with respect to any of the Obligations as and when due or to perform any of such Obligations in accordance with the terms thereof, then in each such event each other Borrower will make such payment with respect to, or perform, such Obligations. A breach hereof or Default or Event of Default hereunder as to any single Borrower shall constitute a breach, Default or Event of Default as to all the Borrowers. Each Borrower hereby waives notice of acceptance of its joint and several liability, notice of the Loans made under this Agreement, notice of the occurrence of any Default or Event of Default, or of any demand for any payment under this Agreement, notice of any action at any time taken or omitted by the Administrative Agent, the Collateral Agent or the Lenders under or in respect of any of the Obligations, any requirement of diligence

or to mitigate damages and, generally, all demands, notices and other formalities of every kind in connection with this Agreement, except for any demands, notices and other formalities expressly required under the terms of this Agreement. Each Borrower hereby assents to, and waives notice of, any extension or postponement of the time for the payment of any of the Obligations, the acceptance of any partial payment thereon, any waiver, consent or other action or acquiescence by the Administrative Agent, the Collateral Agent or the Lenders at any time or times in respect of any default (including any Default or Event of Default) by any Borrower in the performance or satisfaction of any term, covenant, condition or provision of this Agreement, and the taking, addition, substitution or release, in whole or in part, at any time or times, of any security for any of such obligations or the addition, substitution or release, in whole or in part, of any Borrower. Without limiting the generality of the foregoing, each Borrower assents to any other action or delay in acting or failure to act on the part of the Administrative Agent, the Collateral Agent or the Lenders, including any failure strictly or diligently to assert any right or to pursue any remedy or to comply fully with applicable laws or regulations thereunder, which might, but for the provisions of this Section 10.24, afford grounds for terminating, discharging or relieving such Borrower, in whole or in part, from any of its Obligations under this Section 10.24, it being the intention of each Borrower that, so long as any of the Obligations remain unsatisfied, the Obligations of such Borrower under this Section 10.24 shall not be discharged except by performance and then only to the extent of such performance. The joint and several liability of the Borrowers hereunder shall continue in full force and effect notwithstanding any absorption, merger, amalgamation or any other change whatsoever in the name, membership, constitution or place of formation of any Borrower. With respect to any Borrower's Obligations arising as a result of the joint and several liability of the Borrowers hereunder with respect to Loans or other extensions of credit made to any of the other Borrowers hereunder, such Borrower waives, until the Date of Full Satisfaction, any right to enforce any right of subrogation or any remedy which an Agent and/or any Lender now has or may hereafter have against any other Borrower, any endorser or any guarantor of all or any part of the Obligations, and any benefit of, and any right to participate in, any security or collateral given to an Agent and/or any Lender to secure payment of the Obligations or any other liability of any Borrower to an Agent and/or any Lender.

(b) Subject to the immediately preceding sentence, to the extent that any Borrower shall be required to pay a portion of the Obligations which shall exceed the amount of Loans or other extensions of credit received by such Borrower and all interest, costs, fees and expenses attributable to such Loans or other extensions of credit, then such Borrower shall be reimbursed by the other Borrowers for the amount of such excess. This clause is intended only to define the relative rights of Borrowers, and nothing set forth in this clause is intended or shall impair the obligations of each Borrower, jointly and severally, to pay to Administrative Agent and Lenders the Obligations as and when the same shall become due and payable in accordance with the terms hereof. Notwithstanding anything to the contrary set forth in this clause or any other provisions of this Agreement, it is the intent of the parties hereto that the liability incurred by each Borrower in respect of the Obligations of the other Borrowers (and any Lien granted by each Borrower to secure such Obligations), not constitute a fraudulent conveyance or fraudulent transfer under the provisions of any applicable law of any state or other governmental unit ("Fraudulent Conveyance"). Consequently, each Borrower, each Agent and each Lender hereby agree that if a court of competent jurisdiction determines that the inurrence of liability by any Borrower in respect of the Obligations of any other Borrower (or any Liens granted by such Borrower to secure such Obligations) would, but for the application of this sentence, constitute a Fraudulent Conveyance, such liability (and such Liens) shall be valid and enforceable only to the maximum extent that would not cause the same to constitute a Fraudulent Conveyance, and this Agreement and the other Loan Documents shall automatically be deemed to have been amended accordingly, *nunc pro tunc*.

(c) Each Borrower's obligation to pay and perform the Obligations shall be absolute, unconditional and irrevocable, and shall be paid and performed strictly in accordance with the terms of this Agreement under any and all circumstances whatsoever and irrespective of (i) any lack of validity or enforceability of this Agreement, or any term or provision therein, as to any other Borrower, (ii) any

amendment or waiver of or any consent to departure from this Agreement or any other Loan Document, in respect of any other Borrower, (iii) the application of any Loan proceeds to, or the extension of any other credit for the benefit of, any other Borrower, any other Loan Party, or any of their Subsidiaries or (iv) any other event or circumstance whatsoever, whether or not similar to any of the foregoing, that might, but for the provisions of this Section 10.24, constitute a legal or equitable discharge of, or provide a right of setoff against, any Borrower's obligations hereunder, in each case other than the occurrence of the Date of Full Satisfaction. Each of the Borrowers further agree that (i) its obligations under this Agreement and the other Loan Documents shall continue to be effective or be reinstated, as the case may be, if at any time any payment of any such obligations is rescinded or must otherwise be returned by any Person upon the insolvency, bankruptcy or reorganization of, or the application of any Debtor Relief Laws to, any other Borrower, all as though such payment had not been made and (ii) it hereby unconditionally and irrevocably waives any right to revoke its joint and several liability under the Loan Documents and acknowledges that such liability is continuing in nature and applies to all obligations of the Borrowers under the Loan Documents, whether existing now or in the future.

Section 10.25 Acknowledgment and Consent to Bail-In Action. Notwithstanding anything to the contrary in any Loan Document or any other agreement, arrangement or understanding among any such parties, each party hereto acknowledges and accepts that any liability of any Affected Financial Institutions arising under any Loan Document, to the extent such liability is unsecured, may be subject to the write-down and conversion powers of the applicable Resolution Authority, and acknowledges and agrees to be bound by:

(a) the application of any Write-down and Conversion Powers by the applicable Resolution Authority to any such liabilities arising hereunder that may be payable to it by any party hereto that is an Affected Financial Institution; and

(b) the effect of any Bail-In Action in relation to any such liability, including, if applicable:

(i) a reduction, in full or in part, of any such liability; and

(ii) a conversion of all, or a portion of, such liability into shares or other instruments of ownership in such Affected Financial Institution, its parent undertaking, or a bridge institution that may be issued to it or otherwise conferred on it, and that such shares or other instruments of ownership will be accepted by it in lieu of any rights with respect to any such liability under this Agreement or any other Loan Document; or the variation of the terms of such liability in connection with the exercise of the write-down and conversion powers of the applicable Resolution Authority.

Section 10.26 Parallel Liability.

(a) Each Loan Party and each Grantor irrevocably and unconditionally undertakes to pay to the Collateral Agent an amount equal to the aggregate amount of its Corresponding Liabilities (as these may exist from time to time).

(b) The Secured Parties and each Loan Party and each Grantor agree that: (i) each Loan Party's and each Grantor's Parallel Liability is due and payable at the same time, in the same amount and in the same currency as its Corresponding Liabilities; (ii) each Loan Party's and each Grantor's Parallel Liability is decreased to the extent that its Corresponding Liabilities have been irrevocably paid or discharged and its Corresponding Liabilities are decreased to the extent that its Parallel Liability has been irrevocably paid or discharged; (iii) each Loan Party's and each Grantor's Parallel Liability is independent and separate from, and without prejudice to, its Corresponding Liabilities, and constitutes a single obligation of a Loan Party to the Collateral Agent (even though such Loan Party may owe more than one Corresponding Liability to the Secured Parties under the Loan Documents) and an independent and separate claim of the Collateral

Agent, to receive payment of that Parallel Liability (in its capacity as the independent and separate creditor of that Parallel Liability and not as a co-creditor in respect of the Corresponding Liabilities); and (iv) for purposes under this Section 10.26, JPMorgan, in its capacity as Collateral Agent, acts in its own name and not as agent, representative or trustee of the Secured Parties and accordingly holds neither its claim resulting from a Parallel Liability nor any securing a Parallel Liability on trust. As used herein, “Parallel Liability” means a Loan Party’s and a Grantor’s undertaking pursuant to this Section 10.26, which shall in no event exceed such Loan Party’s or such Grantor’s Corresponding Liability.

Section 10.27 [Reserved].

Section 10.28 Lender Affiliates and Facility Office.

(a) In respect of any Revolving Credit Loans or Letters of Credit to a particular Borrower (“Designated Loans”), a Revolving Credit Lender (a “Designating Lender”) may at any time and from time to time designate (by written notice to the Administrative Agent and the Parent Borrower):

- (i) a substitute Lending Office from which it will make Designated Loans (a “Substitute Lending Office”); or
- (ii) nominate an Affiliate to act as the Lender of Designated Loans (a “Substitute Affiliate Lender”).

(b) A notice to nominate a Substitute Affiliate Lender must be in a form reasonably satisfactory to the Parent Borrower and be countersigned by the relevant Substitute Affiliate Lender confirming it will be bound as a Lender under this Agreement in respect of the Designated Loans in respect of which it acts as Lender.

(c) The Designating Lender will act as the representative of any Substitute Affiliate Lender it nominates for all administrative purposes under this Agreement. The Loan Parties, the Grantors, the Administrative Agent, the Collateral Agent and the other Secured Parties will be entitled to deal only with the Designating Lender, except that payments will be made in respect of Designated Loans to the Lending Office of the Substitute Affiliate Lender. In particular the Commitments of the Designating Lender will not be treated as reduced by the introduction of the Substitute Affiliate Lender for voting purposes under this Agreement or the other Loan Documents.

(d) Save as mentioned in clause (c) above, a Substitute Affiliate Lender will be treated as a Lender for all purposes under the Loan Documents and having a Revolving Credit Commitment equal to the principal amount of all Designated Loans in which it is participating if and for so long as it continues to be a Substitute Affiliate Lender under this Agreement.

(e) A Designating Lender may revoke its designation of an Affiliate as a Substitute Affiliate Lender by notice in writing to the Administrative Agent and the Parent Borrower; provided that such notice may only take effect when there are no Designated Loans outstanding to the Substitute Affiliate Lender. Upon such Substitute Affiliate Lender ceasing to be a Substitute Affiliate Lender the Designating Lender will automatically assume (and be deemed to assume without further action by any party) all rights and obligations previously vested in the Substitute Affiliate Lender.

(f) If a Designating Lender designates a Substitute Lending Office or Substitute Affiliate Lender in accordance with this clause:

- (i) any Substitute Affiliate Lender shall be treated for the purposes of Section 3.01 as having become a Lender on the date of this Agreement; and

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(ii) the provisions of Section 10.07(g) shall not apply to or in respect of any Substitute Lending Office or Substitute Affiliate Lender.

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

**QNTY ELECTRONICS, INC.**, as Parent Borrower

By: /s/ Jon D. Kemp

Name: Jon D. Kemp

Title: Chief Executive Officer

[Signature Page to Credit Agreement]

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**JPMORGAN CHASE BANK, N.A.**, as Administrative  
Agent and Collateral Agent

By: /s/ Andrew Rossman  
Name: Andrew Rossman  
Title: Executive Director

[Signature Page to Credit Agreement]



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JPMORGAN CHASE BANK, N.A., as a Lender and an L/C  
Issuer

By: /s/ Andrew Rossman  
Name: Andrew Rossman  
Title: Executive Director

[Signature Page to Credit Agreement]

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**SUMITOMO MITSUI BANKING CORPORATION**, as  
a Lender and an L/C Issuer

By: /s/ Matt Burke  
Name: Matt Burke  
Title: Managing Director

[Signature Page to Credit Agreement]

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BANK OF AMERICA, N.A., as a Lender and an L/C Issuer

By: /s/ Mukesh Singh

Name: Mukesh Singh

Title: Managing Director

[Signature Page to Credit Agreement]

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**BARCLAYS BANK PLC**, as a Lender and an L/C  
Issuer

By: /s/ Sydney G. Dennis  
Name: Sydney G. Dennis  
Title: Director

[Signature Page to Credit Agreement]

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BNP PARIBAS, as a Lender and an L/C Issuer

By: /s/ Nicolas Anberree

Name: Nicolas Anberree

Title: Director

By: /s/ Miko McGuire

Name: Miko McGuire

Title: Vice President

[Signature Page to Credit Agreement]

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CITIBANK, N.A., as a Lender and an L/C Issuer

By: /s/ David Jaffe

Name: David Jaffe

Title: Vice President

[Signature Page to Credit Agreement]

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**GOLDMAN SACHS BANK USA**, as a Lender and  
an L/C Issuer

By: /s/ Andrew Vernon

Name: Andrew Vernon

Title: Authorized Signatory

[Signature Page to Credit Agreement]

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**Mizuho Bank, Ltd.,** as a Lender and an L/C Issuer

By: /s/ Donna DeMagistris

Name: Donna DeMagistris

Title: Managing Director

[Signature Page to Credit Agreement]



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MUFG Bank, LTD., as a Lender and an L/C Issuer

By: /s/ Richard Ferrara

Name: Richard Ferrara

Title: Vice President

[Signature Page to Credit Agreement]

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HSBC Bank USA, National Association, as a Lender and an  
L/C Issuer

By: /s/ Peggy Yip  
Name: Peggy Yip  
Title: Managing Director

[Signature Page to Credit Agreement]

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**STANDARD CHARTERED BANK**, as a Lender

By: /s/ Lavanya Gunasekaran

Name: Lavanya Gunasekaran

Title: Exec Director, Leveraged & Acquisition Finance

[Signature Page to Credit Agreement]

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**THE TORONTO-DOMINION BANK, NEW YORK  
BRANCH, as a Lender**

By: /s/ Victoria Roberts

Name: Victoria Roberts

Title: Authorized Signatory

[Signature Page to Credit Agreement]

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WELLS FARGO BANK, NATIONAL ASSOCIATION, as a  
Lender

By: /s/ Daniel Kinasz  
Name: Daniel Kinasz  
Title: Executive Director

[Signature Page to Credit Agreement]

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Bank of China, New York Branch, as a Lender

By: /s/ Raymond Qiao

Name: Raymond Qiao

Title: Executive Vice President

[Signature Page to Credit Agreement]

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U.S. Bank National Association, as a Lender

By: /s/ Kristopher Heitzman

Name: Kristopher Heitzman

Title: VP, ICG Technology

[Signature Page to Credit Agreement]

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Commerzbank AG, New York Branch, as a Lender

By: /s/ Jack Deegan

Name: Jack Deegan

Title: Managing Director

By: /s/ Robert Sullivan

Name: Robert Sullivan

Title: Director

[Signature Page to Credit Agreement]



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CITIZENS BANK, N.A., as a Lender

By: /s/ A. Paul Dawley

Name: A. Paul Dawley

Title: Senior Vice President

[Signature Page to Credit Agreement]



## NEWS RELEASE

**Qnity Launches as Independent, Publicly Traded Company Serving Semiconductor Value Chain**

*Qnity spins from DuPont as a pure-play global leader in  
advanced electronics materials and solutions*

**WILMINGTON, DEL., Nov. 3, 2025** – Qnity Electronics, Inc. (“Qnity”) (NYSE: Q), a premier technology solutions leader across the semiconductor value chain, announced the completion of its separation from DuPont de Nemours, Inc. (“DuPont”) on Nov. 1. Qnity’s common stock will begin trading on the NYSE today under the ticker symbol “Q”, and the company will also join the S&P 500.

Jon Kemp has assumed the role of Chief Executive Officer of Qnity and continues as a member of Qnity’s Board of Directors as planned. Prior to this appointment, Kemp served as president of DuPont’s Electronics & Industrial business, where he led major portfolio transformation and business growth.

“Today marks a pivotal milestone, built on decades of innovation, as Qnity begins its next chapter as a leading pure-play technology provider serving the semiconductor value chain,” said Kemp. “Driven by strong customer partnerships, global reach, and a broad portfolio of industry-leading materials and technologies, Qnity is making tomorrow’s technologies possible. This includes the transition to advanced nodes, especially for AI applications, including chip manufacturing, advanced packaging, and thermal management.”

Qnity has more than 10,000 employees serving customers in more than 80 countries and regions. Facilities include 39 manufacturing sites and 17 R&D facilities around the world. Two-thirds of Qnity’s portfolio is tied directly to semiconductors, giving the company a total addressable market exceeding \$30 billion. The global semiconductor industry revenue is projected to surpass \$1 trillion<sup>1</sup> around the end of the decade.

At the company’s Investor Day in September, Qnity’s leadership outlined its financial strategy to achieve above-market growth and strong profitability through 2028.

“As a pure-play company focused on the evolving needs of the semiconductor industry, we’re confident in our position to deliver sustained outperformance relative to peers and the market,” said Matt Harbaugh, Chief Financial Officer of Qnity. “Our focus on growth through innovation, productivity, and cost discipline will continue to drive our strong financial performance.”

Learn more about how Qnity is powering the next leap forward at [qnityelectronics.com](https://qnityelectronics.com).

<sup>1</sup> Source: SEMI, McKinsey & Company, and TechInsights.

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**About Qnity**

Qnity™ is a premier technology provider across the semiconductor value chain, empowering AI, high performance computing, and advanced connectivity. From groundbreaking solutions for semiconductor chip manufacturing, to enabling high-speed transmission within complex electronic systems, our high-performance materials and integration expertise make tomorrow's technologies possible. More information about the company, its businesses and solutions can be found at [www.qnityelectronics.com](http://www.qnityelectronics.com).

Qnity™, the Qnity Node Logo, and all products, unless otherwise noted, denoted with TM or ® are trademarks, trade names or registered trademarks of affiliates of Qnity Electronics, Inc.

**Cautionary Statement Regarding Forward-Looking Statements**

This release contains forward-looking statements. Forward-looking statements use words such as “plans”, “expects”, “will”, “would”, “anticipates”, “believes”, “intends”, “seeks”, “projects”, “efforts”, “estimates”, “potential”, “continue”, “intend”, “may”, “could”, “should” and similar expressions, among others, as well as other words or expressions referencing future events, conditions or circumstances. Statements that describe or relate to Qnity's plans, goals, intentions, strategies, financial estimates, Qnity's expectations regarding the Spin-Off, and statements that do not relate to historical or current fact, are examples of forward-looking statements. Forward-looking statements are based on our current beliefs, expectations and assumptions, which may not prove to be accurate, and involve a number of known and unknown risks and uncertainties, many of which are out of Qnity's control. Forward-looking statements are not guarantees of future performance, and there are a number of important factors that could cause actual outcomes and results to differ materially from the results contemplated by such forward-looking statements. Additional information concerning these and other factors can be found in Qnity's filings with the U.S. Securities and Exchange Commission, including Qnity's registration statement on Form 10 and current reports on Form 8-K. Any forward-looking statement speaks only as of the date on which it is made. Qnity does not undertake any obligation to publicly update or revise any forward-looking statements, whether as a result of new information, future events or otherwise, except as required by applicable law.

**Investor Contact**

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